

Chapter 36

TAX CODE*

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ARTICLE I. IN GENERAL

Sec. 36-1. Violations.

Any person found guilty of violating the provisions of this chapter shall be deemed guilty of a class 1 misdemeanor. (Tax Code 1941, § 115)

Secs. 36-2—36-15. Reserved.

ARTICLE II. LICENSE TAXES†‡

DIVISION 1. GENERALLY

Sec. 36-126. Overriding conflicting ordinances.

Except as may be otherwise provided by the laws of the Commonwealth of Virginia, and the charter of the City of Lynchburg, and notwithstanding any other current ordinances or resolutions enacted by the city council, whether or not compiled in the code of the City of Lynchburg, to the extent of any conflict, the following provisions shall be applicable to the levy, assessment, and collection of licenses required and taxes imposed on businesses, trades, professions and callings and upon the persons, firms and corporations engaged therein within the city. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.1. Adoption of state laws and guidelines.

(a) As to all questions in regard to the duty and conduct of officers of the city on collecting and enforcing the taxes imposed by this chapter and in regard to questions of construction, and for definitions of terms

***Editor's note**—Sections 36-16 through 36-125.2 of Article II were repealed by O-96-319, 12-10-96 and replaced by Sections 36-126 through 36-126.43 and Section 36-191.

***Editor's note**—This chapter contains the 1941 Tax Code of the city, as amended through 1975.

†**Charter reference**—Bonds, taxes, sinking funds, etc., § 44 et seq.

‡**Cross references**—Department of finance, § 2-324 et seq.; finance and taxation, Ch. 18.

‡**Charter reference**—Taxes on trades, businesses, profession, § 48.

used in this article and the rules and regulations applicable to putting the same in operation, reference is hereby made to the laws of the state for the assessment, levy and the collection of taxes for the current year, or to so much thereof as is applicable to this article and is not inconsistent with it and general ordinances of the city. For the conduct and guidance of the officers of the city and other parties affected by this article and for fixing their powers, rights, duties and obligations, the provisions of such laws, so far as applicable, are hereby adopted, without specifically herein quoted.

(b) For purposes of determining the proper category within which to place a business, profession or occupation in determining tax liability, the commissioner of the revenue shall utilize the current edition of the "Guidelines for Business, Professional and Occupational License Tax" as published by the Commonwealth of Virginia, Department of Taxation, or successor document. Those businesses, professions and occupations for which no guidance is available shall be taxed in accordance with this article unless specifically exempted from taxation by Virginia Code Section 58.1-3703(B), or successor section, or this article. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.2. License a personal privilege.

Every license issued under the provisions of this article shall be deemed to confer a personal privilege to transact, carry on or conduct within the city the business, trade, profession or occupation which may be the subject of the license and shall not be exercised except by the person licensed. All licenses for which a license tax is imposed in this article shall be for the calendar year in which the same were issued, unless otherwise herein specified. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.3. Tax levied.

For the purpose of doing business or operating in the city, there are hereby levied and shall be assessed and collected the annual license taxes on the persons, businesses, professions, trades and occupations set forth in this article for the license year 1997 and each and every license year thereafter until otherwise changed by city council, which license taxes shall be for the support of the city government, the payment of the city debts and interest thereon, and for other municipal purposes. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.4. Definitions.

For the purposes of this ordinance, unless otherwise required by the context:

(a) Affiliated group.

(1) One or more chains of includable corporations connected through stock ownership with a common parent corporation which is an includable corporation if:

a. Stock possessing at least eighty percent (80%) of the voting power of all classes of stock and at least eighty percent (80%) of each class of the nonvoting stock of each of the includable corporations, except the common parent corporation, is owned directly by one or more of the other includable corporations.

b. The common parent corporation directly owns stock possessing at least eighty percent (80%) of the voting power of all classes of stock and at least eighty percent (80%) of each class of the nonvoting stock of at least one of the other includable corporations. As used in this section, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends. The term "includable corporation" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

(2) Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty percent (80%) of the total combined voting power of all classes of stock entitled to vote or at least eighty percent (80%) of the total value of shares of all classes of the stock of each corporation.

b. More than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

(3) When one or more includable corporations, including the common parent corporation is a nonstock corporation, the term "stock" as used in this section shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

(b) Assessment: a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by the taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed.

(c) Assessor and assessing official: the City of Lynchburg's commissioner of the revenue.

(d) Base year: except for contractors subject to the provisions of Virginia Code Section 58.1-3715, or successor section, the preceding year's gross receipts on a cash or accrual basis for either the fiscal year or the calendar year used by the business; provided, that the year and method employed shall also coincide with the year and method used for federal and state income tax purposes.

(e) Business: a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business; or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

(f) Commissioner: the City of Lynchburg's commissioner of the revenue.

(g) Definite place of business: an office or a location at which occurs a regular and continuous course of dealing for thirty (30) consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not licensable as a peddler or itinerant merchant.

(h) License year: the calendar year for which a license is issued for the privilege of engaging in business.

(i) Person: includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form or character, including any trustee, receiver, assignee or personal representative thereof carrying on or continuing a business, profession, trade, service or occupation. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.5. General duties of the commissioner of the revenue.

(a) It shall be the duty of the commissioner of the revenue to require all persons conducting any business, employment or profession for which a license is required by this article to procure such license and pay the license tax therefore. Should any license tax not be paid, the commissioner of the revenue shall prosecute such violation.

(b) The commissioner of the revenue, in performing the duties of such office, shall have authority to require any person or entity doing business in the city to furnish information concerning subcontractors to whom any part of a contract is sublet. The information shall include, but is not limited to, a list of the name and address of each subcontractor, and the amount of each subcontract.

(c) The commissioner of the revenue is authorized to determine the construction or application of any doubtful or disputed provisions of this article. Such determination shall be subject to judicial review and the appeal process promulgated by the Virginia Department of Taxation, as provided by law.

(d) Any taxpayer may request a written ruling regarding the application of the tax to a specific situation from the commissioner of the revenue. Any person requesting such a ruling must provide all the relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to taxpayer. Any misrepresentation or change in the applicable law or the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is a change in the law, a court decision, (ii) the commissioner of the revenue notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based, or (iii) the original facts are found to be inaccurate or misrepresented. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect, unless such person intentionally gave inaccurate or misleading information to the commissioner of the revenue.

(e) As one of the means of ascertaining the amount of any license tax due under this article, the commissioner of the revenue, any duly sworn deputy or attorney for the commissioner of the revenue, may propound interrogatories to an applicant for a license and use such other evidence as he may procure. Such interrogatories shall be answered under oath. It shall be unlawful for any applicant to refuse to answer such interrogatories under oath.

(f) The commissioner of the revenue shall impose penalties as set forth in Section 36-126.9 of this article. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.6. *(Note: Underlined and strikethrough changes take effect on 1-1-05)* License requirements; filing procedures; due dates; limitations and extensions.

(a) License requirements.

(1) Every person shall apply for a license for each business or profession when engaging in a business in the city if (i) such person maintains a definite place of business in the city; (ii) such person does not maintain a definite office anywhere, but does maintain an abode in the city, which abode, for the purposes of this article, shall be deemed a definite place of business; (iii) there is no definite place of business in this city but the person operates amusement machines or is engaged in business as an itinerant merchant, peddler, carnival, circus as specified in Virginia Code Sections 58.1-3717, 3718, or 3728, respectively, or successor sections; or is engaged in business as a contractor subject to Virginia Code Section 58.1-3715, or successor section, or public service corporation subject to Virginia Code Section 58.1-3731, or successor section.

(2) A separate license shall be required for each definite place of business and for each business. A person engaged in two or more businesses or professions carried on at the same place of business may elect to obtain one license for all such businesses and professions if all of the following criteria are satisfied: (i) each business or profession is licensable at the location and has satisfied any requirements imposed by state law or other provisions of the ordinances of the city; (ii) all of the businesses or professions are subject to the same tax rate, or, if subject to different tax rates, the licensee agrees to be taxed on all businesses and professions at the highest rate; (iii) the taxpayer agrees to supply such information as the assessor may require concerning the nature of the several businesses and their gross receipts.

(3) Any person doing business at more than one place of business shall be required to take out a separate license for each such place of business. Each such place of business shall constitute a separate and distinct place of business requiring the payment of a license tax as provided for under this article.

(b) Filing procedures.

(1) No license shall be issued by the commissioner of the revenue for the conduct of any business upon any vacant lot or in any building in the city, unless and until the applicant for the license shall present a certificate of occupancy furnished by the building inspector of the city to the effect that the proposed use of said premises is not a violation of the provisions of the city zoning ordinance.

(2) No license shall be issued by the commissioner of the revenue for the conduct of any business as a partnership or any business utilizing a fictitious or assumed name, unless and until the applicant for the license shall present a receipt furnished by the clerk of the circuit court certifying registration of such partnership or fictitious or assumed name.

(3) If the business in question is one for which a license can be granted only on the permit of a court or other officer, such license shall not be valid or effective until such certificate has been obtained and presented to the commissioner of the revenue. This requirement shall include, but is not limited to, the following:

Bondsman
Dealers in precious metals
Pawnbroker
Door-to-door sales/solicitors.

(4) All persons liable for the payment of a license tax under the provisions of this article shall make application therefore to the commissioner of the revenue. The commissioner shall furnish the necessary forms which shall be properly and fully executed by the applicant and shall contain such information as may be required by the commissioner. In cases where the license tax is based upon gross receipts or purchases of the business or occupation to be licensed, the commissioner shall require a sworn statement from the applicant of the amount of such gross receipts or purchases during the preceding year, except in the case of a beginner as hereinafter defined. The commissioner shall assess such applicant, or the person of whom the license is required, with the license tax required by this article.

(5) Every person beginning a business, profession, trade or occupation is subject to a license tax under the provisions of this article and which is based in whole or in part on gross receipts or purchases, shall estimate the amount of gross receipts he will receive or the amount of purchases he will make between the date of beginning business and the end of the then current license year, and his license tax for the then current year shall be computed upon such estimate. Any person who has not been in business for one full license period when making application for a license shall be considered as a beginner and the amount of his license tax for the then current year shall be computed accordingly. Whenever a license tax is so computed upon the estimated gross receipts or estimated purchases, any erroneous estimate shall be subject to correction, and the commissioner of the revenue shall assess such person for any additional license tax found to be due after the end of that license year, and in the case of an overestimate the taxpayer shall be entitled to a credit upon his license tax payable the following year.

(c) Due dates.

(1) Each person subject to a license tax shall apply for a license prior to beginning business if such person was not subject to licensing in this city on or before January 1 of the license year. If such person had been issued a license for the preceding license year, the application shall be on forms prescribed by the commissioner of the revenue.

(2) Any person beginning a business, employment or profession after January 1, unless otherwise stated, shall first file with the commissioner of the revenue an application for a license covering such business, employment or profession and the license tax shall be paid to the billings and collections division within thirty (30) days of beginning business or ~~March~~ May 1, whichever is later. Any person conducting any licensable business, employment or profession on or before the first day of January of any year shall file the license application with the commissioner of the revenue on or before ~~March~~ May 1 of such year and ~~sixty percent (60%) of~~ the license tax shall be paid to the billings and collections division on or before ~~March~~ May

~~1, with the remaining forty percent (40%) payable on or before June 1, except as otherwise herein provided. The tax shall be paid with the application in the case of any license not based on gross receipts/purchases.~~

(d) Limitations and extensions.

(1) The commissioner of the revenue may, for reasonable cause, grant a thirty (30) day extension in which to file an application for a license. ~~The extension shall be conditioned upon the timely payment of sixty percent (60%) of the previous year's license tax liability, subject to adjustment to the correct tax at the end of the extension.~~

(2) No such license shall be issued until such applicant has produced satisfactory evidence that all delinquent business license, business personal property, meals, amusement, and transient occupancy taxes owed to the city have been paid.

(3) A license issued under this article shall not be valid or effective until the tax required by this chapter has been paid to the billings and collections division.

(4) Notwithstanding Virginia Code Section 58.1-3903, or successor section, the commissioner of the revenue shall assess the local license tax omitted because of fraud or failure to apply for a license for the current license year and the six (6) preceding license years.

(5) The period for collecting any local license tax shall not expire prior to the period specified in Virginia Code Section 58.1-3940, or successor section, two (2) years after the date of assessment if the period for assessment has been extended pursuant to this section, two (2) years after the final determination of an appeal for which collection has been stayed pursuant to the appeal and ruling process described in this article, or two (2) years after the final decision in a court application pursuant to Virginia Code Section 58.1-3984, or successor section, or similar law for which collection has been stayed, whichever is later.

(e) Any person conducting a licensable business, employment or profession who does not comply with the provisions of this section shall be guilty of a class 2 misdemeanor as set forth in Sec. 36-126.9 of this article. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97; Ord. No. O-04-036, 3-23-04, eff. 1-1-05)

Sec. 36-126.7. Gross receipts.

(a) Gross receipts means the whole, entire, total receipts attributable to the licensed privilege, without deduction, except as may be limited by the provisions of Virginia Code Section 58.1-3703, or successor section, and this article.

(b) Situs of gross receipts. General rule. Whenever the tax imposed by this ordinance is measured by gross receipts, the gross receipts included in the taxable measure shall be only those gross receipts attributed to the exercise of a licensable privilege at a definite place of business within this city. In the case of activities conducted outside of a definite place of business, such as during a visit to a customer location, the gross receipts shall be attributed to the definite place of business from which such activities are initiated, directed, or controlled. The situs of gross receipts for different classifications of business shall be attributed to one (1) or more definite places of business or offices as follows:

(1) The gross receipts of a contractor shall be attributed to the definite place of business at which his services are directed or controlled, unless the contractor is subject to the provisions of Virginia Code Section 58.1-3715, or successor section.

(2) The gross receipts of a retailer or wholesaler shall be attributed to the definite place of business at which sales solicitation activities occur, or if sales solicitation activities do not occur at any definite place of business, then the definite place of business from which sales solicitation activities are directed or controlled; however, a wholesaler or distribution house subject to a license tax measured by purchases shall determine the situs of its purchases by the definite place of business at which or from which deliveries of the purchased goods, wares and merchandise are made to customers. Any wholesaler who is subject to license tax in two (2) or more localities and who is subject to multiple taxation because the localities use different

measures, may apply to the department of taxation for a determination as to the proper measure of purchases and gross receipts subject to license tax in each locality.

(3) The gross receipts of a business renting tangible personal property shall be attributed to the definite place of business from which the tangible personal property is rented or, if the property is not rented from any definite place of business, then the definite place of business at which the rental of such property is managed.

(4) The gross receipts from the performance of services shall be attributed to the definite place of business at which the services are directed or controlled.

(c) Apportionment. If the licensed activity has more than one (1) definite place of business and it is impractical or impossible to determine to which definite place of business gross receipts should be attributed under the general rule, the gross receipts of the business shall be apportioned between the definite places of business on the basis of payroll. Gross receipts shall not be apportioned to a definite place of business unless some activities under the applicable general rule occurred at, or were controlled from, such definite place of business. Gross receipts attributable to a definite place of business in another jurisdiction shall not be attributed to the city solely because the other jurisdiction does not impose a tax on the gross receipts attributable to the definite place of business in such other jurisdiction.

(d) Agreements. The commissioner of the revenue may enter into agreements with any other political subdivision of Virginia concerning the manner in which gross receipts shall be apportioned among definite places of business. However, the sum of the gross receipts apportioned by the agreement shall not exceed the total gross receipts attributable to all of the definite places of business affected by the agreement. Upon being notified by a taxpayer that its method of attributing gross receipts is fundamentally inconsistent with the method of one (1) or more political subdivisions in which the taxpayer is licensed to engage in business and that the difference has, or is likely to, result in taxes on more than one hundred percent (100%) of its gross receipts from all locations in the affected jurisdictions, the commissioner of the revenue shall make a good faith effort to reach an apportionment agreement with the other political subdivisions involved. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.8. Exclusions and deductions from gross receipts.

(a) General rule. Gross receipts for license tax purposes shall not include any amount not derived from the exercise of the license privilege to engage in a business or profession in the ordinary course of business or profession.

(b) The following items shall be excluded from gross receipts:

(1) Amounts received and paid to the United States, the Commonwealth or any county, city or town for the Virginia retail sales or use tax, or for any local sales tax or any local excise tax on cigarettes, for any federal or state excise taxes on motor fuels.

(2) Any amount representing the liquidation of a debt or conversion of another asset to the extent that the amount is attributable to a transaction previously taxed (e.g., the factoring of accounts receivable created by sales which have been included in taxable receipts even though the creation of such debt and factoring are a regular part of its business).

(3) The sale price of property sold and returned during the period covered by the return, deducting from such price the amount received on account of the sale and not refunded or allowed as credit. If the total amount received is refunded or allowed as a credit, the total sales price of the article returned may be deducted from gross receipts. If a part of the total sales price is refunded or allowed as a credit, the amount to be deducted from gross receipts is the amount refunded or allowed as a credit.

(4) If the sale of any property is made by exchange of property of any kind, the price allowed for the property received in exchange constitutes the amount to be deducted, provided, however, that when such

property is sold, the sale price of such property shall constitute gross receipts within the meaning of this chapter.

- (5) Receipts which are the proceeds of a loan transaction in which the licensee is the obligor.
- (6) Receipts representing the return of principal of a loan transaction in which the licensee is the creditor, or the return of principal or basis upon the sale of a capital asset.
- (7) Rebates and discounts taken or received on account of purchase by the licensee. A rebate or other incentive offered to induce the recipient to purchase certain goods or services from a person other than the offeror, in which the recipient assigns to the licensee in consideration of the sale of goods and services shall not be considered a rebate or discount to the licensee, but shall be included in the licensee's gross receipts together with any handling or other fees related to the incentive.
- (8) Withdrawals from inventory for purposes other than sale or distribution and for which no consideration is received and the occasional sale or exchange of assets other than inventory, whether or not a gain or loss is recognized for federal income tax purposes.
- (9) Investment income not directly related to the privilege exercised by a licensable business not classified as rendering financial services. This exclusion shall apply to interest on bank accounts of the business, and to interest, dividends and other income derived from the investment of its own funds in securities and other types of investments unrelated to the licensed privilege. This exclusion shall not apply to interest, late fees and similar income attributable to an installment sale or other transaction that occurred in the regular course of business.

(c) The following shall be deducted from gross receipts or gross purchases that would otherwise be taxable:

- (1) Any amount paid for computer hardware and software that are sold to a federal or state government entity provided that such property was purchased within two (2) years of the sale to said entity by the original purchaser who shall have been contractually obligated at the time of purchase to resell such property to a federal or state government entity. This deduction shall not occur until the time of resale and shall apply to only the original cost of the property and not to its resale price, and the deduction shall not apply to any of the tangible personal property which was the subject of the original resale contract if it is not resold to a federal or state government entity in accordance with the original contract obligation.
- (2) Any receipts attributable to a business conducted in another state or foreign country in which the taxpayer is liable for an income or other tax based upon income. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.9. Penalties and interest.

(a) Penalties.

(1) A penalty of ten percent (10%) of the tax shall be imposed upon the failure to file an application or the failure to pay the tax by the appropriate due dates. A late filing penalty shall be imposed by the commissioner of the revenue if the application is late. If a late filing penalty is imposed, billings and collections shall impose a late payment penalty of ten percent (10%) if the tax is not paid within thirty (30) days. If a late filing penalty is not imposed, billings and collections shall impose a ten percent (10%) late payment penalty if the tax is not paid by the appropriate due dates. However, both penalties may be assessed if the assessing official determines that the taxpayer has a history of noncompliance. In the case of an assessment of additional tax made by the commissioner of the revenue, if the application and, if applicable, the return were made in good faith and the understatement of the tax was not due to any fraud, reckless or intentional disregard of the law by the taxpayer, there shall be no late filing penalty assessed with the additional tax. If any additional assessment of tax by the commissioner of the revenue is not paid within thirty (30) days, the billings and collections division shall impose a ten percent (10%) late payment penalty. If the failure to file or pay was not the fault of the taxpayer, the penalties shall not be imposed, or

if imposed shall be abated by the official who assessed them. In order to demonstrate lack of fault, the taxpayer must show that he acted responsibly and that the failure was due to events beyond his control.

(2) Acted responsibly means that: (i) the taxpayer exercised the level of reasonable care that a prudent person would exercise under the circumstances in determining the filing obligations for the business and (ii) the taxpayer undertook significant steps to avoid or mitigate the failure, by requesting the appropriate extension.

(3) Events beyond the taxpayer's control include, the unavailability of records due to fire or other casualty; the unavoidable absence (e.g., due to death or serious illness) of the person with sole responsibility with tax compliance; or the taxpayer's reasonable reliance in good faith upon erroneous written information from the commissioner of the revenue who was aware of the relevant facts relating to the taxpayer's business when he provided the erroneous information.

(4) Unless otherwise specifically provided by law, a violation of any provision of this chapter shall constitute a class 2 misdemeanor. The conviction of any person or entity for a violation of any provision of this article and the imposition of a penalty therefore shall not relieve such person from liability for any tax imposed upon him by this article.

(b) Interest.

(1) Interest shall be charged on the late payment of the tax from the due date until the date paid without regard to fault or other reason for the late payment. Whenever an assessment of additional or omitted tax by the commissioner of the revenue is found to be erroneous, all interest and penalty charged and collected on the amount of the assessment found to be erroneous shall be refunded together with interest on the refund from the date of payment or the due date, whichever is later. Interest shall be paid on the refund of any tax paid under this article from the date of payment or due date, whichever is later, whether attributable to an amended return or other reason. Interest on any refund shall be paid at the same rate charged in paragraph (2) below. However, if such erroneous payments were in any way due to the fault or negligence of the taxpayer, no interest shall be paid on the refund of the erroneously paid taxes.

(2) Interest at the rate of ten percent (10%) per annum shall be charged, on principal and applicable penalty, from the due date until the date paid.

(3) No interest shall accrue on an adjustment of estimated tax liability to actual liability at the conclusion of a base year. No interest shall be paid on a refund or charged on a late payment, provided the refund or the late payment is made not more than thirty (30) days from the date of the payment that created the refund or the due date of the tax, whichever is later. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.10. Display of license.

(a) Every person required to pay a license tax under the provisions of this article shall keep the license upon which such tax was paid in a convenient place and, whenever required to do so, shall exhibit the same to any authorized enforcement officer to inspect licenses or to any authorized representative of the commissioner of the revenue.

(b) Every person in charge of any premises where a business, occupation, profession or other activity required to be licensed under this article is conducted or practical shall permit any authorized enforcement officer to make such inspections, and the license inspector to make a physical inspection of the entire premises, for the purpose of ascertaining license tax liability, at any time during regular business operation hours. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec 36-126.11. Suspension.

(a) The city manager is hereby authorized and empowered to suspend any license issued under the provisions of this article for cause; and such suspension shall continue until the cause or causes are removed.

(b) Such suspension, when written notice thereof is received by the licensee or any person in charge of the place of business, shall place the licensee in the same position as if he had never obtained a license. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.12. Transfer of license.

Licenses issued under the provisions of this chapter may be transferred, except as otherwise provided, from one person to another or from one location to another; provided, that no such transfer shall be valid unless and until notice in writing be given to the commissioner of the revenue of the proposed transfer, which notice shall contain the name, trade name, if any, and the address of the proposed transferee, the proposed new location, if any, as well as the time of the proposed transfer; and the commissioner may approve such transfer upon being satisfied of the good faith thereof; and provided, further, that no transfer of a license shall be permitted where the amount of the license tax due was computed on an estimated basis. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.13. Recordkeeping and audits.

(a) Every person who is assessable with a license tax shall keep sufficient records to enable the commissioner of the revenue to verify the correctness of the tax paid for the license years assessable and to enable the commissioner to ascertain what is the correct amount of tax that was assessable for each of those years. All such records, books of accounts, and other information shall be open to inspection and examination by the commissioner in order to allow the commissioner to establish whether a particular receipt is directly attributable to the taxable privilege exercised within this jurisdiction. The commissioner shall provide the taxpayer with the option to conduct the audit in the taxpayer's local business office, if the records are maintained there. In the event the records are maintained outside this jurisdiction, copies of the appropriate books and records shall be sent to the commissioner's office upon demand.

(b) If any licensee shall fail to maintain the records required in this section, regularly supported by customary vouchers, the commissioner of the revenue is hereby authorized and directed to estimate the taxpayer's gross receipts or purchases on the basis of the best evidence he can obtain, and the commissioner shall make an assessment on the basis of such determination and adding thereto the penalty and interest prescribed by law.

(c) Upon the filing of a report under this section, or in any case in which the commissioner of the revenue shall deem it advisable, the commissioner shall investigate and ascertain whether the person filing a report or return has made a correct report or return and, to that end, the commissioner may summon such person before him and require the production of any and all of his records, books and papers likely to throw any light upon the matter under investigation. The commissioner may also make, or cause to be made, such other and further investigations, examinations and audits of the records, books and papers of such person as he shall deem proper, in order to determine accurately the proper report or return to be made by the person in question.

(d) All invoices, records and general books of accounts referred to in this section shall be open to inspection and examination, on the premises of the business, employment or profession in question, by the commissioner of the revenue, or any other officer of the city charged in any manner with the duty of assessing or collecting license taxes.

(e) If, upon an investigation pursuant to this section, it shall appear that the license basis or other matters pertinent to assessment were incorrectly reported or returned, the commissioner of the revenue shall assess the person in question with the proper license tax.

(f) Any person who shall fail to appear before the commissioner of the revenue and produce such records, books and papers, when duly summoned, or who shall refuse to permit the commissioner to make or cause to be made such other and further investigations and audit of such books and papers, shall be guilty of a

class 2 misdemeanor. Each days refusal to furnish such access or information shall constitute a separate offense.

(g) If appropriate, the penalty provisions of Sec. 36-126.9 of this article shall apply. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.14. Appeals and rulings.

(a) Any person assessed with a local license tax as the result of an audit may apply within ninety (90) days from the date of the assessment to the commissioner of the revenue for a correction of the assessment. The application must be filed in good faith and sufficiently identify the taxpayer, audit period, remedy sought, each alleged error in the assessment, the grounds upon which the taxpayer relies, and any other facts relevant to the taxpayer's contention. The commissioner of the revenue may hold a conference with the taxpayer, if requested by the taxpayer, or require submission of additional information and documents, a further audit, or other evidence deemed necessary for a proper and equitable determination of the application. The assessment shall be deemed prima facie correct. The commissioner of the revenue shall undertake a full review of the taxpayer's claims and issue a determination to the taxpayer setting forth his position. Every assessment pursuant to an audit shall be accompanied by a written explanation of the taxpayer's right to seek correction and the specific procedure to be followed in the city (e.g. the name and address to which an application should be directed).

(b) Provided a complete application is made within ninety (90) days of an assessment, collection activity shall be suspended until a final determination is issued by the commissioner of the revenue, unless the commissioner determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of this article, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" includes a finding that the application is frivolous, or that a taxpayer desires to (i) depart quickly from the locality, (ii) remove his property therefrom, (iii) conceal himself or his property therein, or (iv) do any other act tending to prejudice, or to render wholly or partially ineffectual, proceedings to collect the tax for the period in question.

(c) Any person assessed with a business license tax as a result of an audit may apply within ninety (90) days of the determination by the commissioner of the revenue on an application pursuant to this article to the tax commissioner for a correction of such assessment. The tax commissioner shall issue a determination to the taxpayer within ninety (90) days of receipt of the taxpayer's application, unless the taxpayer and the commissioner of the revenue are notified that a longer period will be required. The application shall be treated as an application pursuant to Virginia Code Section 58.1-1821, or successor section, and the tax commissioner may issue an order correcting such assessment pursuant to Virginia Code Section 58.1-1822, or successor section. Following such an order, either the taxpayer or the commissioner of the revenue may apply to the appropriate circuit court pursuant to Virginia Code Section 58.1-3984, or successor section. However, the burden shall be on the party making the application to show that the ruling of the tax commissioner is erroneous. Neither the tax commissioner nor the department of taxation shall be made a party to an application to correct an assessment merely because the tax commissioner has ruled on it.

(d) On receipt of a notice of intent to file an appeal to the tax commissioner under Sec. 36-126.14 (c) above, the commissioner of the revenue shall further suspend collection activity until a final determination is issued by the tax commissioner, unless the commissioner of the revenue determines that collection would be jeopardized by delay or that the taxpayer has not responded to a request for relevant information after a reasonable time. Interest shall accrue in accordance with the provisions of this article, but no further penalty shall be imposed while collection action is suspended. The term "jeopardized by delay" shall have the same meaning as set forth in Sec. 36-126.14 (b) above.

(e) Any taxpayer may request a written ruling regarding the application of a local license tax to a specific situation from the commissioner of the revenue. Any person requesting such a ruling must provide all the

relevant facts for the situation and may present a rationale for the basis of an interpretation of the law most favorable to the taxpayer. Any misrepresentations or change in the applicable law of the factual situation as presented in the ruling request shall invalidate any such ruling issued. A written ruling may be revoked or amended prospectively if (i) there is any change in the law, a court decision, or the guidelines issued by the department of taxation upon which the ruling was based (ii) the commissioner notifies the taxpayer of a change in the policy or interpretation upon which the ruling was based, or (iii) the original facts are found to be inaccurate or misrepresented. However, any person who acts on a written ruling which later becomes invalid shall be deemed to have acted in good faith during the period in which such ruling was in effect, unless such person intentionally gave inaccurate or misleading information to the commissioner of the revenue.

(f) Every person beginning a business, profession, trade or occupation which is subject to a license tax under the provisions of this article shall be entitled to a gross receipts/purchases reconciliation by the commissioner of the revenue after the fourth (4th) year of business. If the reconciliation results in an over reporting of gross receipts/purchases for the four (4) years of operation, the person would be entitled to a refund thereon for that portion of the license tax already paid, as to ensure that the license privilege tax is assessed only on actual gross receipt/purchases for the preceding four (4) years. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.15. Proration of license taxes.

In the event a person, firm or corporation ceases to engage in a business, trade, profession, occupation or calling within the city during a year for which a license tax based on gross receipts has already been paid, the taxpayer shall be entitled upon application to a refund for that portion of the license tax already paid, prorated on a monthly basis so as to ensure that the licensed privilege is taxed only for that fraction of the year during which it is exercised within the city. The commissioner of the revenue may elect to remit any refunds in the ensuing fiscal year and may offset against such refund any amount of past due taxes owed by the same taxpayer. In no event shall the commissioner of the revenue be required to refund any part of a flat fee or minimum flat tax. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.16. Transitional provisions.

The provisions of this article relating to penalties, interest, and administrative and judicial review of an assessment shall be applicable to assessments made on and after January 1, 1997, even if for an earlier license year. The provisions relating to agreements extending the period for assessing tax shall be effective for agreements entered into on and after July 1, 1996. The provisions permitting an assessment of license taxes for up to six (6) preceding years in certain circumstances shall not be construed to permit the assessment of taxes for a license year beginning before January 1, 1997. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.17. Young men's christian associations.

In order to encourage and promote community services within the city, beginning January 1, 1992, and for each calendar year thereafter, unless otherwise changed by city council, young men's christian associations and similar religious associations, including religious mission boards and associations, orphan or other asylums, reformatories, hospitals and nunneries, conducted not for profit but exclusively as charities (which shall include hospitals operated by nonstock corporations not organized or conducted for profit but which may charge persons able to pay in whole or in part for their care and treatment) shall be exempt from the payment of business license taxes imposed by this article. Each such organization that engages in business activities that would otherwise be taxable must still file the necessary forms with the commissioner of the revenue and obtain a no fee license from the city. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.18. Processors.

In order to encourage and promote the development and growth within the city of business activities that qualify as manufacturing under federal guidelines but not under state law, effective on January 1, 1992, and for each calendar year thereafter, unless otherwise changed by city council, processors are exempt from the payment of the business license tax imposed by this article. For purposes of this section processor means (i) any operation where an article, whether owned by the processor or not, is subjected to some special treatment or method, by artificial or natural means, that effectuates a change in the article's form, chemical composition, physical appearance or ingredients and which enhances the article's value and makes it more usable or marketable (ii) and which operation qualifies as manufacturing under industry group numbers 201, 202, 267, 287, 344 or 347 of the standard industrial classification manual published by the United States office of management and budget. Any person or organization that engages in the replacement or assembly of parts, the repair or rebuilding of worn items or providing repair, personal or business services is not a processor for the purpose of this section. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97; Ord. No. O-97-230, 11-25-97, eff. 1-1-92)

Sec. 36-126.19. Urban enterprise zone and technology zones.

(a) Any business required to obtain a license pursuant to this article, and which is designated as a "qualified business firm" pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, (the Urban Enterprise Zone Act), shall be entitled to the following tax credits: For the first two (2) calendar years, a one hundred percent (100%) credit; for the third (3rd) calendar year, a seventy-five percent (75%) credit; for the fourth (4th) calendar year, a fifty percent (50%) credit; and for the fifth (5th) calendar year, a twenty-five percent (25%) credit. Thereafter the tax shall be at the rate provided for in this chapter.

(b) Any business required to obtain a license pursuant to this article, and which is designated as a "qualified business firm" on or after July 1, 1995 pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, (the Urban Enterprise Zone Act), shall be entitled to the following tax credits: For the first three (3) calendar years, a one hundred percent (100%) credit; and for the fourth (4th) and fifth (5th) calendar years, a fifty percent (50%) credit. Thereafter the tax shall be at the rate provided for in this article.

(c) Any business required to obtain a license pursuant to this article, and which is designated as a technology business and which business locates in the city's downtown technology zone on or after July 1, 2002, shall be entitled to a ten-year reimbursement of business license taxes as follows: during the first five (5) calendar years, a one hundred percent (100%) reimbursement; for the sixth (6th) calendar year a seventy percent (70%) reimbursement; for the seventh (7th) calendar year a sixty percent (60%) reimbursement; for the eighth (8th) calendar year a forty percent (40%) reimbursement; and, for the ninth (9th) and tenth (10th) calendar years a twenty percent (20%) reimbursement.

(d) Any business required to obtain a license pursuant to this article, and which is designated as a technology business and which business locates in the city's lynchpin technology zone on or after July 1, 2002, shall be entitled to a five-year reimbursement of business license taxes as follows: during the first (1st) calendar year, an eighty percent (80%) reimbursement; for the second (2nd) calendar year a sixty percent (60%) reimbursement; for the third (3rd) calendar year a forty percent (40%) reimbursement; and, for the fourth (4th) and fifth (5th) calendar years a twenty percent (20%) reimbursement. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97; Ord. No. O-02-054, 3-26-02)

DIVISION 2. CLASSIFIED BUSINESS AND PROFESSIONAL LICENSES.

Sec. 36-126.20. Generally.

In order to promote and encourage the development and growth of small businesses and professions within the city, effective on January 1, 1997, for the calendar year beginning January 1, 1997 and ending December 31, 1997, and for each calendar year thereafter, unless otherwise changed by city council, the following provisions shall apply to small businesses and professions.

(1) Any business or profession whose gross receipts, wholesale sales, purchases for the business or commission sales for the preceding calendar year are ten thousand dollars (\$10,000) or less shall not be required to purchase a license from the city. Each business or profession must still file the necessary forms with the commissioner of the revenue and obtain a no fee license from the city.

(2) Any business or profession whose gross receipts, wholesale sales, purchases for the business or commission sales for the preceding calendar year are between ten thousand one dollars (\$10,001) and fifty thousand dollars (\$50,000) shall pay an annual license tax of thirty dollars (\$30.00).

(3) Any business or profession whose gross receipts, wholesale sales, purchases for the business or commission sales for the preceding calendar year are between fifty thousand one dollars (\$50,001) and one hundred thousand dollars (\$100,000) shall pay an annual license tax of fifty dollars (\$50.00).

(4) Any business or profession whose gross receipts, wholesale sales, purchases for the business or commission sales for the preceding calendar year are in excess of one hundred thousand dollars (\$100,000) shall obtain a business license in accordance with the provisions of this article. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.21. Retail merchants — Definitions.

(a) Retailer or retail merchant: any person or merchant who sells goods, wares and merchandise for use or consumption by the purchaser or for any purpose other than resale by the purchaser, but does not include sales at wholesale to institutional, commercial and industrial users. When a merchant conducts both a wholesale and a retail business, such merchant shall obtain a retail license on the retail portion of the business and a wholesale license on the wholesale portion of the business.

The sale price alone is not determinative of whether a sale is at retail or wholesale. The fact that goods, wares or merchandise are sold at wholesale prices, at cost or at less than cost does not prevent the seller from being classified as a retail merchant if the sales fall within the definition of a retail sale.

(b) Huckster: any person who, as principal, agent or employee, resides within a radius of sixty (60) miles of the city and purchases within said radius from the producer of farm products grown or produced within said radius, and who, on any public street or public place of the city, or by going from house to house on foot, or upon any animal or vehicle, sells, barter, offers for sale or barter, or carries or exposes for sale or barter such farm products to the consumer.

(c) Peddler: any person, who shall carry from place to place any goods, wares and merchandise and offer to sell or barter the same, or actually sell or barter the same. All persons who do not keep a regular place of business, whether it be a house or vacant lot or elsewhere, open at all times and during regular business hours and at the same place, who shall offer for sale goods, wares and merchandise shall be deemed peddlers under this article. All persons who keep a regular place of business, open at all times and during regular business hours and at the same place, who shall, elsewhere than at such regular place of business, personally or through their agents offer for sale or sell and, at the time of such offering for sale, deliver goods, wares and merchandise shall also be deemed peddlers as above. This definition shall also include any person who sells or offers for sale prepared food at retail from a vehicle on private property of an active business enterprise with the prior written consent of such business.

(d) Direct seller: any person who engages in the trade of business of selling or soliciting the sale of consumer products and maintains no public location for the conduct of such business; and who performs such activities pursuant to a written contract between such person and the person for whom the activities are performed and such contract provides that such person will not be treated as an employee with respect to such activities for federal tax purposes. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.22. Retail merchants—Rate and classifications.

(a) Every person engaged in the business as a retailer or retail merchant, huckster, peddler, or direct seller as defined in Sec. 36-126.21, shall pay an annual license tax of twenty cents (\$.20) per each one hundred dollars (\$100) of gross receipts from such business during the preceding year when such gross receipts exceed one hundred thousand dollars (\$100,000).

(b) Retailer or retail merchant generally includes, but is not limited to, the following occupations, businesses or trades:

Antique show

Automobile

Craft show

Flea market

Gasoline and petroleum product

Merchandise through vending machines

Prepared food

Publisher directory

Restaurant

Short term rental

All other retail sales (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.23. Flea markets and craft shows.

(a) Flea market or craft show shall include any show consisting of any group of persons or merchants selling goods, wares and merchandise such as hobby crafts, antiques, art work, jewelry or second-hand articles, or any combination of these or similar items.

(b) No individual participating in a flea market or craft show as a retail merchant shall be liable for any license taxation on his gross receipts generated at such show under this chapter if the promoter, manager or organizer obtains a license and pays the license tax as provided in this section, and if the merchant reports to such promoter, manager or organizer the merchant's total gross receipts from such show.

(c) Nothing contained in this section shall be construed to relieve any promoter, manager or organizer of a flea market or craft show of the obligation to pay any other license taxes that may be imposed by this chapter.

(d) The license taxes imposed by this section shall not apply to any show or sale, if the only sales thereunder are made directly by a nonprofit organization.

(e) Each person organizing, operating, promoting or managing a flea market or craft show shall keep accurate and legible records, in English, setting forth the amount of the total gross receipts from all sales of goods or merchandise at the flea market or craft show. Representatives of the commissioner of the revenue's office shall be allowed to examine such records upon request to determine the amount of the license taxes due under this section. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.24. Producers.

Any person who, as a principal or employee, is actually engaged in the business of growing or producing wood, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature and farm products grown or produced by him, and who has not purchased said articles which he offers for sale to the consumer or licensed dealer. No license tax shall be levied on any producer, provided such products are grown or produced by the person offering such products for sale. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.25. Wholesale merchants—Definitions.

(a) Wholesaler or wholesale merchant shall mean any person or merchant who sells wares and merchandise for resale by the purchaser, including sales when the goods, wares and merchandise will be incorporated into goods and services for sale, and also includes sales to institutional, commercial, and government and industrial users which because of the quantity, price or other terms indicate that they are consistent with sales at wholesale.

(b) Wholesale peddler shall mean any person, firm or corporation, who or which sells or offers to sell goods, wares and merchandise to licensed dealers, other than at a definite place of business operated by the seller, and at the time of such sale or exposure for sale delivers, or offers to deliver the goods, wares and

merchandise to the buyer. For the purposes of this section any delivery made on the day of sale shall be construed as a delivery at the time of sale.

(c) Purchases shall mean the cost of goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall include the cost of manufacture of such goods, wares and merchandise manufactured by any wholesaler or wholesale merchant and sold or offered for sale as merchandise. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.26. Wholesale merchants—Rate.

Every person engaged in the business of a wholesale merchant or wholesale peddler shall pay for the privilege of conducting such business in the city an annual license tax of twenty dollars (\$20.00) plus twenty-eight cents (\$.28) for each one hundred dollars (\$100.00) of gross purchases for the business during the preceding year when the gross purchases of such business exceeds one hundred thousand dollars (\$100,000). (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.27. Financial, real estate and professional services—Definitions.

(a) Financial services: the buying, selling, handling, managing, investing and providing of advice regarding money, credit, securities and other investments and shall include the service for compensation by a credit agency, an investment company, a broker or dealer in securities and commodities or a security or commodity exchange, unless such service is otherwise provided for in this article.

(b) Broker: an agent of a buyer or a seller who buys or sells stocks, bonds, commodities, or services, usually on a commission basis.

(c) Commodity: staples such as wool, cotton, etc., which are traded on a commodity exchange and on which there is trading in futures.

(d) Dealer: any person engaged in the business of buying and selling securities for his own account, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business.

(e) Security: shall have same meaning as in the Securities Act (Title 13.1-501 et seq.) of the Code of Virginia, or in similar laws of the United States regulating the sale of securities.

(f) Real estate services: rendering a service for compensation as lessor, buyer, seller, agent or broker providing a real estate service, unless such service is specifically provided for under another section of this article.

(g) Professional services: services performed by architects, attorneys at law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Virginia department of taxation may list in the business, professional, occupational license (BPOL) guidelines promulgated pursuant to Virginia Code Section 58.1-3701, or successor section. The department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study is used by its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.28. Financial, real estate and professional services—Rate and classifications.

(a) Every person engaged in the business of financial, real estate or professional services shall pay an annual license tax of fifty-eight cents (\$.58) for each one hundred dollars (\$100.00) of gross receipts from

such business during the preceding year when such gross receipts exceed one hundred thousand dollars (\$100,000).

(b) Financial, real estate and professional services generally include, but is not limited to, the following businesses and services:

Accountant

Architect

Attorney

Broker

Chiropractor

CPA

Dealer in installment paper

Dentist

Doctor

Engineer

Medical services

Mental health therapist

Mortgage company

Optometrist

Physical therapist

Professional consultant

Psychological

Real estate agent

Real estate appraiser

Respiratory therapist

Small loan

Veterinarian

All other financial, real estate and professional services (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.29. Contractors—Definitions.

(a) Contractor shall mean any person, firm or corporation who accepts or offers to accept orders or contracts for:

(1) Any work on or in any building or structure, requiring the use of paint, stone, brick, mortar, wood, cement, structural iron or steel, sheet iron, galvanized iron, metallic piping, tin, lead, or other metal or any other building material.

(2) Any paving, curbing or other work on sidewalks, streets, alleys, or highways, or public or private property, using asphalt, brick, stone, cement, concrete, wood or any composition.

(3) Any excavations of earth, rock, or other material for foundation or any other purpose or for cutting, trimming or maintaining rights-of-way.

(4) Any sewer constructions of stone, brick, terra cotta or other material.

(5) Any work on or in any building or premises involving the erecting, installing, altering, repairing, servicing, or maintaining electric wiring, devices or appliances permanently connected to such wiring, or the erecting, repairing or maintaining of lines for the transmission or distribution of electric light and power.

(6) Engaging in the business of plumbing and steam fitting.

(b) Persons contracting for their own account for sale shall be included in the contracting category for business license tax purposes and this category shall include speculative builders. All of the cost of erecting speculative buildings, exclusive of the value of the land, shall be considered as a part of the orders or contracts accepted by the taxpayer in computing the taxpayer's license tax.

(c) A contractor whose principal office or branch office is outside the city and who accepts a contract or contracts to be performed in the city, when the amount of business done by any such contractor under such contract or contracts exceeds the sum of twenty-five thousand dollars (\$25,000.00) in any year, shall be treated in the same manner as a new business, and shall be required to file an estimate of the amount of gross receipts he will receive from such contract or contracts during each year in which he is doing business in the city, which estimates shall be subject to correction and adjustment at the end of each year by the commissioner of the revenue in the same manner as adjustments are made for new businesses.

(d) Every contractor who proposes to do work in the city, for which a permit must be obtained from the proper building official of the city, shall, upon making application for such permit, furnish that official and the commissioner of the revenue, a list of all of his subcontractors, and, in the event any or all of such subcontractors have not been awarded at that time, he shall furnish such list in writing to said official immediately upon the awarding of such subcontracts, and shall not allow the work of any subcontract to proceed until the subcontractor has obtained the necessary city licenses for the then current year. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.30. Contractors—Rate.

Every person engaging or conducting business as a contractor, and persons constructing for their own account for sale shall pay an annual license tax of sixteen cents (\$.16) for every one hundred dollars (\$100.00) of gross receipts for such business during the preceding year when such gross receipts exceed one hundred thousand dollars (\$100,000). (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.31. Repair, personal, business and other services—Definitions.

(a) Services shall mean things purchased by a customer which do not have physical characteristics, or which are not goods, wares or merchandise.

(1) Repair service is the repairing, cleaning or servicing some article or item of personal property for compensation, unless such service is specifically provided for under another section of this article or exempted from local taxation by Title 58.1 of the Code of Virginia, or successor title.

(2) Personal service is any service rendered for compensation either upon or for persons, animals or personal effects, unless such service is specifically provided for under another section of this article or exempted by Title 58.1 of the Code of Virginia, or successor title.

(3) Business service is any service rendered for compensation to any business, trade, occupation or governmental agency, unless such service is specifically provided for under another section of this article or exempted by Title 58.1 of the Code of Virginia, or successor title.

(b) Commission merchant shall mean any person engaging in the business of selling merchandise on commission by sample, circular, or catalog for a regularly established retailer, who has no stock or inventory under his control other than floor samples held for demonstration or sale and owned by the principal retailer. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.32. Repair, personal, business and other services—Rate and classifications.

(a) Every person engaging in a repair, personal, business service or any other service, including commission merchants, not specifically listed in this section shall pay an annual license tax of thirty-six cents (\$.36) for each one hundred dollars (\$100.00) of gross receipts from such business during the preceding year when such gross receipts exceed one hundred thousand dollars (\$100,000).

(b) Repair, personal, business, and other services generally include but are not limited to the following services:

- Adult care
- Advertising agency
- Amusement machines
- Animal grooming
- Appraiser
- Auctioneer
- Audio visual production
- Auto detailing
- Auto rental
- Auto repair
- Barber
- Beauty school
- Beauty shop
- Billboard
- Bondsman
- Booking agent
- Bookkeeper
- Bowling alley
- Broker (other than real estate or financial)
- Business service
- Business school
- Calibrating service
- Car wash
- Cemetery miscellaneous service

Child care attendant/school
Cleaning service
Cleaning and pressing
Coin laundry
Collection agent
Commercial artist
Commercial recreation center
Computer programming
Consultant
Cosmetic business
Counseling
Court reporter
Cover charge
Dance school
Data service
Delivery service
Desk top publishing
Detective
Diet school
Disc jockey
Discount club
Driving school
Duplicating
Electrologist
Employment agency
Engraving
Entertainment
Exercise establishment
Florist service
Framing
Golf course
Graphics
Healthcare service

Homecare service
Hospitals
Hotel
Housing inspector
Identification service
Installation service
Insurance adjuster
Interior decorator
Investigator
Janitorial service
Karate school
Kennels
Laboratory
Landscaping
Laundry
Lawn care
Leasing
Leasing cars
Limousine service
Linen supply
Loan broker
Lodging house
Mail service
Manicurist
Massage therapist
Mediator
Miniature golf
Miscellaneous service
Mobile cleaning service
Movie theaters
Music instructor
Nursing/retirement home
Orthopedic lab

Parking lot
Party management
Pawnbroker
Payroll service
Pest control
Photographer
Pool management
Pool and billiards
Promoter
Property management
Publisher
Referral service
Rental service
Repair service
Research service
Secretarial service
Security service
Sign painter
Sitter service
Skating rink
Small animal hospital
Storage
Tailor/seamstress
Tanning salon
Tax service
Taxicab
Teacher/instructor
Telemarketing
Telephone answering service
Temporary help
Tennis court
Therapeutic massage
Tour and guide service

Towing
Training service
Translator
Transfer and hauling
Travel agency
Tree surgeon/removal
Tutoring service
Undertaker
U V coating
Vehicle rental
Video recording
Word processing
Writing/typing service (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.33. Bail bondsmen.

(a) Except in those instances where the context clearly indicates a different meaning, the following words and terms, when used in this article, shall, for the purpose of this article, have the following meanings:

(1) Bail bond; bond shall include every recognizance or acknowledgement of indebtedness conditioned upon the appearance of any person charged with violation of law before any court or judicial officer having criminal jurisdiction.

(2) Bondsman shall mean every person who, for compensation, enters into any bond or recognizance as surety.

(3) Collateral shall include any money, note, stock, bond, real or personal property, whether tangible or intangible, used or put as security or indemnity for entering into any bail bond.

(4) Principal shall mean the person charged with violation of law and whose appearance is required in any bail bond.

(5) Surety shall mean every person, firm or corporation, other than a corporation licensed to do business as a bonding company, who for compensation, enters into any recognizance or bond other than as a principal.

(b) No bondsman shall enter into any such bond if the aggregate or penalty of such bond, and other bonds, whether entered into this city or some other jurisdiction, on which he has not released from liability is in excess of the unencumbered true market value of his real estate.

(c) Each bondsman entering into bonds in the City of Lynchburg, if so directed by the judge of the circuit court of the City of Lynchburg or the judge of the circuit court of any other county or city in which he is licensed, shall place a deed of trust on the real estate that he is using for the limit of his expected bond indebtedness to secure the Commonwealth of Virginia and shall name the commonwealth's attorney of the City of Lynchburg as trustee under the deed of trust. In addition thereto, such bondsman shall furnish the clerk of the circuit court of the City of Lynchburg an acceptable appraisal and title of certificate of the real estate subject to any such deed of trust. Each bondsman entering into bonds in the city shall also file with the clerk of the circuit court of the City of Lynchburg not later than the fifth (5th) day of each month a list

of all outstanding bonds, whether entered into in this city or some other jurisdiction, on which the bondsman was obligated as of the last day of the preceding month together with the amount of the penalty of each such bond and the unencumbered true market value of the bondsman's real estate.

(d) Every bondsman shall keep a book or other record of all bail bonds executed by him, in which he shall be accurately and fairly written, in the English language, the name of the principal, the court and the time in which the principal is to appear, the amount of compensation paid or to be paid, the amount, kind and brief description of any collateral received therefore and the person from whom received. Such book and record shall at all reasonable times be open to inspection by the judges of the Lynchburg circuit court, the Lynchburg chief of police or any police officer of the city and the commonwealth's attorney or any of the other assistant commonwealth's attorneys.

(e) Any bondsman violating any of the provisions of this chapter, upon conviction thereof, shall be guilty of a class 1 misdemeanor and, upon conviction, shall forfeit his license issued under this chapter.

(f) If any bondsman licensed hereunder fails or refuses to pay any forfeiture after notice and demand by the judge of the court having jurisdiction, he shall forfeit his license and shall be suspended from any further bonds in the city until the forfeiture is paid or it is adjudicated that he is not liable thereon. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

DIVISION 3. SPECIAL LICENSES.

Sec. 36-126.34. Savings and loan associations.

Every savings and loan association or company having its principal office in the city shall pay for the privilege of doing business within the city an annual license tax of fifty dollars (\$50.00). (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.35. Amusement machines.

(a) Amusement operator shall mean any person leasing, renting or otherwise furnishing or providing a coin-operated amusement machine or device operated on the coin-in-the-slot principle in the city; provided, however, that the term amusement operator shall not include a person owning less than three (3) coin machines and operating such machines on property owned or leased by such person.

(b) Any amusement operator, as defined herein, shall pay for the privilege of conducting such business within the city an annual license tax of two hundred dollars (\$200.00), not prorated, for the operation of ten (10) or more coin-operated amusement machines. For the operation of less than ten (10) amusement machines, the operator shall pay an annual license tax of one hundred ninety-nine dollars (\$199.00), not prorated. In addition to this tax, such amusement operator shall pay a tax on the gross receipts actually received by such operator from coin machines or devices operated within the city. The gross receipts tax paid by amusement operators shall be thirty-six cents (\$.36) for each one hundred dollars (\$100.00) of gross receipts from the preceding year when such gross receipts exceed one hundred thousand dollars (\$100,000). (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.36. Itinerant vendors.

(a) Itinerant vendors shall mean any person, firm or corporation who shall engage in, do or transact any temporary or transient business in the city in one or more places for the sale of goods, wares and merchandise, who for the purpose of carrying on such business shall hire, lease, use or occupy any building or structure, motor vehicle, tent, car, boat or public room or any part thereof, including rooms in hotels, lodging houses, or houses of private entertainment, or in any street, alley, or other public place in the city, for a period of less than one (1) year, for the exhibition of or sale of such goods, wares and merchandise.

(b) Any itinerant vendor doing business in the city shall pay for the privilege an annual license tax of five hundred dollars (\$500.00), not prorated. The license shall be a personal privilege and shall not be transferable nor shall there be any abatement in any instance of the tax upon such license by reason of the fact that such person or persons so licensed shall exercise such license for any period of time less than that for which it was granted. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126-37. Circuses, menageries, and freak shows.

(a) No circus, menagerie, trained animal or wild west show, or other like performance, shall be exhibited within the city until a license has been first obtained therefore, for which privilege a license tax shall be charged as hereinafter provided, and no rebate shall be allowed for rainy days.

(b) On every circus, show or menagerie, trained animal or wild west show, a license tax shall be charged as follows:

(1) On such shows traveling on railroads requiring transportation of:

- a. One (1) to ten (10) cars inclusive per day - one hundred ten dollars (\$110.00).
- b. Eleven (11) to twenty (20) cars inclusive per day - one hundred sixty-five dollars (\$165.00).
- c. Twenty-one (21) to thirty (30) cars inclusive per day - two hundred twenty dollars (\$220.00).
- d. Over thirty (30) cars inclusive per day - two hundred seventy-five dollars (\$275.00).

(2) On such shows traveling overland by automobile or other conveyance, the tax for each day's performance or exhibition shall be based upon the automobile or conveyance capacity as follows:

- a. One (1) to ten (10) loads inclusive per day - fifty-five dollars (\$55.00).
- b. Eleven (11) to thirty (30) loads inclusive per day - one hundred ten dollars (\$110.00).
- c. Thirty-one (31) to fifty (50) loads inclusive per day - one hundred sixty-five dollars (\$165.00).
- d. Over fifty (50) loads inclusive per day - two hundred twenty dollars (\$220.00).

(3) The above licenses include parades where circus performances are given in the city.

(4) On each parade in the streets of this city of a circus, menagerie, trained animal or wild west show, the performances of which are given outside of the city limits, a license tax of fifty-five dollars (\$55.00) shall be charged.

(c) Every person conducting within the city a freak show or exhibition of wax figures, or display of like character, or photographic displays of criminals, etc., shall pay for the privilege a license tax of one hundred ten dollars (\$110.00) per week, not prorated. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.38. Public utilities; light, heat and power companies.

Every person furnishing heat, light or power within the city, whether by means of electricity or gas, shall pay for the privilege an annual license tax of one-half (1/2) of one percent (1%) of the gross receipts accruing from such business in the city for the preceding year. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.39. Alcoholic beverages.

(a) Every person who shall be engaged in the business of selling mixed alcoholic beverages in a restaurant shall, in addition to any other license required by this chapter, obtain a license to sell mixed alcoholic beverages and shall pay therefore the license tax hereinafter provided.

(1) For persons operating restaurants, including restaurants located on premises and operated by hotels or motels.

a. For each restaurant with a seating capacity at tables for fifty (50) to one hundred (100) persons, per annum - two hundred dollars (\$200.00).

b. For each restaurant with a seating capacity at tables for more than one hundred (100) but not more than one hundred fifty (150) persons, per annum - three hundred fifty dollars (\$350.00).

c. For each restaurant with a seating capacity at tables for more than one hundred fifty (150) persons, per annum - five hundred dollars (\$500.00).

(2) For a private, non-profit club operating a restaurant located on the premises of such club, per annum - three hundred fifty dollars (\$350.00).

(b) Every person who shall engage in the business of manufacturing, bottling, wholesaling or retailing alcoholic beverages shall obtain a license therefore and shall pay therefore the license tax hereinafter provided.

(1) For each distiller's license, per annum; provided, however, that no license shall be required of any distiller manufacturing not more than five thousand (5,000) gallons of alcohol or spirits or both during any license year - one thousand dollars (\$1,000.00).

(2) For each winery license if to manufacture not in excess of five thousand (5,000) gallons of wine during the license year, per annum - one hundred ten dollars (\$110.00).

(3) If to manufacture more than five thousand (5,000) gallons of wine during the license year, per annum - five hundred fifty dollars (\$550.00).

(4) For each brewery license, per annum - five hundred fifty dollars (\$550.00).

(5) For each bottler's license, per annum - five hundred dollars (\$500.00).

(6) For each wholesale beer license, per annum - two hundred fifty dollars (\$250.00).

(7) For each wholesale wine distributor's license, per annum - fifty dollars (\$50.00).

(8) For each wholesale druggist's license, per annum - ten dollars (\$10.00).

(9) For each retail on-premises wine license for a hotel, restaurant or club, per annum - thirty-five dollars (\$35.00).

(10) For each retail off-premises wine license, per annum - thirty-five dollars (\$35.00).

(11) For each retail beer license, per annum - one hundred five dollars (\$105.00).

(c) No license shall be issued under this section to any person unless such person shall hold or secure simultaneously therewith the proper state license required by the Alcoholic Beverage Control Act, which state license shall be exhibited to the commissioner of the revenue, and all dining rooms, restaurants, lunchrooms and clubrooms, wherein the beverages herein defined are sold for consumption on the premises, shall at all times be open to inspection by the state police and the police authorities of the city. Provided, further, that any storeroom or other building from which deliveries are made either at wholesale or retail by bottlers, wholesalers or retailers shall at all times be open to the inspection of the state police and the police authorities of the city. Any violation of the terms of this provision shall be sufficient grounds for the revocation of the license issued in accordance with this section.

(d) All licenses provided herein may be prorated, but no license shall be prorated for less than three (3) months. All such licenses shall be issued on the basis of the license year and any license taken out after the beginning of a quarter shall be paid for on the basis of a full quarter.

(e) All licenses granted or issued pursuant to the provisions of this section shall expire the thirtieth (30th) day of June next following the date from which they were granted or issued. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.40. Telegraph companies.

Every person engaging in the telegraph business in the city shall pay for the privilege of doing business in the city, but not including any business done to or from points within the state, and not including any business done for the government of the United States or the state, their officers or agents, an annual license tax of one-half (1/2) of one percent (1%) of the gross receipts accruing from such business in the city for the preceding year. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.41. Telephone companies.

Every person engaging in the telephone business in the city shall pay for the privilege of doing business in the city, but not including any business done to or from points within the state, and not including any business done for the government of the United States or the state, their officers or agents, an annual license tax of one-half (1/2) of one percent (1%) of the gross receipts accruing from such business in the city for the preceding year. This annual license tax shall be payable in two (2) installments: one-half (1/2) on or before July thirty-first (31st) based on such gross receipts from January first (1st) through June thirtieth (30th), inclusive, and one-half (1/2) on or before January thirty-first (31st) based on such gross receipts from July first (1st) through December thirty-first (31st), inclusive. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.42. Fortune-telling, astrology, palmistry, etc.

Every person engaging within the city in fortune-telling, soothsaying, palmistry, astrology, spiritualism, psychological readings, clairvoyance, horoscope, phrenology or a like calling or business, whether a direct charge is made therefore or not, and whether or not medicine or medicine remedies or other merchandise or services are dispensed or sold or prescribed at the same time in the same place, or another place, shall pay for the privilege an annual license tax of one thousand dollars (\$1,000.00), not prorated. The license provided for herein shall not be transferable. Any person engaging in such calling or business without first obtaining the license required herein shall be guilty of a class 2 misdemeanor. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Sec. 36-126.43. Mail order warehouse distribution center.

Every person conducting or engaging in the business of a mail order warehouse distribution center in the city shall pay an annual license tax based upon the following when gross receipts exceed one hundred thousand dollars (\$100,000.00):

- (1) For the first twenty million dollars (\$20,000,000.00) of gross receipts in such business during the preceding year, the sum of twenty cents (\$.20) for each one hundred dollars (\$100.00) of such gross receipts.
- (2) For the next twenty million dollars (\$20,000,000.00) of gross receipts in such business during the preceding year, the sum of four cents (\$.04) for each one hundred dollars (\$100.00) of such gross receipts.
- (3) For all gross receipts in excess of forty million dollars (\$40,000,000.00) in such business during the preceding year, no annual license tax shall be assessed. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

DIVISION 4. MOTOR VEHICLE LICENSES*

Sec. 36-127. Definitions.

The words and phrases used in this division indicating kinds or types of vehicles shall have the same meanings ascribed to them as are set out in Section 46.1-1 of the Code of Virginia, 1950, and acts amendatory thereto.

The term “resident of the city,” as used herein, shall be construed to embrace any person having a place of abode in the city, irrespective of any intention on the part of any person to return to or to establish a residence outside the city at some future time. The term “resident of the city” shall also be construed as embracing any corporation or firm having an office or place of business in the city.

Where any license tax set forth in this division is based on the “weight” of the vehicle, the manufacturer's shipping weight shall be used in determining the same.

As used in this article, the term “gross weight” means the aggregate weight of a vehicle or combination of vehicles and its load.

As used in this article the words “plate,” “plates,” “tag” or “tags,” shall be considered to include and mean “or decal” or “sticker.” In the event a decal or sticker is issued in lieu of a metal plate, it shall be displayed on the windshield of the vehicle for which issued, at the option of the motor vehicle owner, on either the upper edge of the center of the windshield or on the windshield adjacent to the left or right side of the official state inspection sticker, or at such other place on the windshield as may be designated by the superintendent of the department of state police. The decal or sticker shall be permanently attached to the windshield and shall be displayed twenty-four (24) hours a day. (Tax Code 1941, § 83; Ord. of 11-12-57; Ord. of 12-22-64; Ord. of 11-10-70; Ord. No. O-84-014, § 1, 1-24-84)

***Cross reference**—Motor vehicles licensing and registration generally, § 25-79, et seq.

Sec. 36-128. Required.

(a) Every person having a place of residence in the city shall pay an annual license tax on every motor vehicle owned, kept or operated by such person in the city; and every person having a place of business in the city shall pay an annual license tax on every motor vehicle operated by such person in the city in or in conjunction with such business; and every person not having a place of residence or business within the city, but who habitually operates a motor vehicle in the city in furtherance of some business or occupation carried on within the city, shall pay an annual license tax on every motor vehicle so used, at the rates hereinafter set forth; and such person shall purchase a city license plate for each of such vehicles within thirty (30) days of purchasing a state license plate for such vehicle, or within thirty (30) days of becoming a resident of the city or within thirty (30) days of beginning to operate a motor vehicle or vehicle on the streets of the city.

(b) Any person residing temporarily or permanently within the city who shall operate therein a motor vehicle bearing license plates issued by a jurisdiction other than the state, shall purchase a city license plate for such motor vehicle at such time as, under the laws of the state, a state license plate is required for such motor vehicle. (Tax Code 1941, § 84; Ord. of 11-12-57; Ord. of 12-22-64; Ord. of 11-8-66; Ord. of 7-9-68; Ord. of 1-28-69; Ord. No. O-85-248, § 1, 10-8-85)

Cross reference—Payment of personal property tax, § 36-132.

Sec. 36-129. Exemptions.

(a) No city motor vehicle license plate shall be required upon any motor vehicle used by a vehicle dealer or vehicle manufacturer when such vehicle is being used exclusively for sales purposes; nor upon any motor vehicle on which similar taxes or fees have been paid to a county, city or town of which the owner of such vehicle was a resident; nor upon any motor vehicle belonging to any person who is not a resident of the city when such vehicle is used exclusively for pleasure or personal transportation and not for hire; nor shall any license plate be required on any vehicle which the city is prohibited from the imposition of a license tax by the laws of the state, and especially as so limited by Section 46.1-66 of the Code of Virginia, 1950, as amended.

(b) Pursuant to the authority granted by section 46.2-752 of the Code of Virginia the following vehicles are exempt from the purchase of local motor vehicle licenses:

(1) Motor vehicles that are owned by volunteer rescue squads that operate within the city and which are used for emergency calls.

(2) One motor vehicle owned and used personally by any active member of a volunteer rescue squad that operates within the city. The active members of a volunteer rescue squads shall be required to obtain a free decal from the city and affix it to their vehicles in accordance with the provisions of this division. On or before April 1 of each year any member of a volunteer rescue squad who is a city resident and who desires a free decal shall furnish the city collector's office with a certificate signed by the chief or head of the rescue squad verifying that the volunteer is an active member of the rescue squad who regularly responds to emergency calls or regularly performs other duties for the rescue squad. No refunds shall be made for decals purchased by the members of a volunteer rescue squad. (Tax Code 1941, § 84; Ord. of 11-12-57; Ord. of 12-22-64; Ord. of 11-8-66; Ord. of 7-9-68; Ord. of 1-28-69; Ord. No. O-95-069, 3-28-95)

Sec. 36-130. Amount of taxes.

The annual license tax hereby imposed on motor vehicles shall be in addition to any other property tax on motor vehicles and shall be as follows:

(a) Passenger vehicles: The annual license tax to be paid for motor vehicles, trailers and semitrailers designed and used for the transportation of passengers shall be as follows:

(1) Twenty-five dollars (\$25.00) for a private motor vehicle other than a motorcycle with a normal seating capacity of not more than ten (10) persons, including the driver, if such private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur.

(2) Seventy-five cents (\$0.75) per one hundred (100) pounds of weight or major fraction thereof for a private motor vehicle other than a motorcycle with a normal seating capacity of more than ten (10) adult persons, including the driver, if such private motor vehicle is not used for the transportation of passengers for compensation and is not kept or used for rent or for hire or is not operated under a lease without a chauffeur. Provided that in no case shall the tax be less than twenty dollars (\$20.00).

(3) Twenty-five dollars (\$25.00) for a school bus owned and operated by a private school or private bus owned and operated by a charitable organization in connection with its work.

(4) Eighteen dollars thirty-three cents (\$18.33) for a noncollapsible trailer or semitrailer designed for use as living quarters for human beings.

(5) Twenty-five dollars (\$25.00) for each motor vehicle, trailer or semitrailer kept or used for rent or for hire or operated under a lease without chauffeur for the transportation of passengers. This subsection shall not apply to vehicles used as common carriers.

(6) Two dollars twenty-five cents (\$2.25) per one hundred (100) pounds of weight or fraction thereof for a taxicab and other vehicles kept for rent or for hire operated with a chauffeur for the transportation of passengers. This subsection shall not apply to vehicles used as common carriers nor shall it apply to ambulances operating under a certificate of public convenience and necessity issued under Chapter 5 of this code.

(7) Seven dollars fifty cents (\$7.50) for a motorcycle plus four dollars (\$4.00) additional for each sidecar or delivery box.

(8) Twenty-five dollars (\$25.00) for a bus used exclusively for transportation to and from Sunday School or church for the purpose of divine worship.

(9) Seventy-five cents (\$0.75) per one hundred (100) pounds of weight or major fraction thereof for other passenger-carrying vehicles.

(10) Twenty-five dollars (\$25.00) for each motor vehicle weighing not less than twenty-three thousand two hundred (23,200) pounds nor more than thirty thousand (30,000) pounds gross weight when such motor vehicle is owned and operated by a charitable organization in connection with its work. A charitable organization as used in this subsection is one organized for some benevolent purpose for benefit of the public or an indefinite class thereof.

The manufacturer's shipping weight or scale weight shall be used for computing all taxes required by this section to be based upon the weight of the vehicle.

(b) Vehicles other than passenger vehicles: The annual license tax to be paid for all motor vehicles, trailers and semitrailers not designed and used for the transportation of passengers shall be an amount to be determined by the gross weight of the vehicle or combination of vehicles of which it is a part, when loaded to the maximum capacity for which it is registered and licensed, by the state pursuant to applicable provision of Title 46.1 of the Code of Virginia, 1950, as amended, according to the schedule herein set forth; provided, however, that the tax for the license plates for said motor vehicles, trailers and semitrailers shall not exceed two hundred fifty dollars (\$250.00). For each thousand pounds of gross weight, or major fraction thereof, for which any such vehicle is registered by the state, there shall be paid to the city motor vehicle license officer the tax indicated in the following schedule immediately opposite the weight group into which such vehicle, or any combination of vehicles of which it is a part, falls when loaded to the maximum capacity for which it is registered and licensed; provided that in no case shall the license tax be less than twenty-five dollars (\$25.00) nor more than two hundred fifty dollars (\$250.00).

SCHEDULE

Gross weight group (pounds)	Tax per thousand pounds of gross weight
10,000 and less	\$ 2.50
10,001 - 11,000	2.60
11,001 - 12,000	2.80
12,001 - 13,000	3.00
13,001 - 14,000	3.16
14,001 - 15,000	3.34
15,001 - 16,000	3.50
16,001 - 17,000	3.84
17,001 - 18,000	4.16
18,001 - 19,000	4.50
19,001 - 20,000	4.84
20,001 - 21,000	5.16
21,001 - 22,000	5.50
22,001 - 23,000	5.84
23,001 - 24,000	6.16
24,001 - 25,000	6.50
25,001 - 26,000	6.84
26,001 - 27,000	7.00
27,001 - 28,000	7.05
28,001 - 29,000	7.10
29,001 - 34,000	7.20
Over 34,000	maximum tax 250.00

(c) Certain trailers: The annual license tax to be paid for a one (1) or two (2) wheel trailer of a cradle, flat bed or open pickup type which has a body width not greater than the width of the motor vehicle to which it is attached at any time of operation, which is pulled or towed by a passenger car or station wagon, or a pickup or panel truck having an actual gross vehicle weight not exceeding five thousand (5,000) pounds, and which is used for carrying property not exceeding one thousand five hundred (1,500) pounds at any one time, shall be eight dollars thirty-four cents (\$8.34). Nothing herein shall be construed as applying to the tax for trailers or semitrailers designed for use as living quarters for human beings, or to those trailers or semitrailers operated under lease or rental agreement, or operated for compensation.

(d) Vehicles transporting well-drilling machinery: The annual license tax to be paid for any motor vehicle, trailer or semitrailer upon which well-drilling machinery is attached and which is permanently used solely for transporting such machinery shall be twenty-five dollars (\$25.00).

(e) Determination of tax for combination of tractor-truck and semitrailers, etc.: In the case of a combination of a tractor-truck and semitrailer, the tax to be paid to the city thereon shall be determined in the same manner as the registration fee to the state is determined pursuant to Section 46.1-157 of the Code of Virginia, 1950, as amended. The annual license tax for a semitrailer constituting a part of such combination shall be thirty dollars (\$30.00).

(f) When taxes due and payable: License taxes for all vehicles shall be due and payable on the fifteenth (15th) day of April in each year. All license taxes levied by this section shall be paid to the city motor vehicle officer who shall issue the license and plate numbers at such places as may be designated from time to time by the city manager.

(g) Proration: The annual license taxes paid on a motor vehicle that acquires a situs within the city after April 16 of a tax year shall be prorated by paying the following percentages of the annual tax:

<u>Period</u>	<u>Percentage</u>
March 1 - April 30	100
May 1 - May 31	92
June 1 - June 30	84
July 1 - July 31	76
August 1 - August 31	68
September 1 - September 30	60
October 1 - October 31	52
November 1 - November 30	44
December 1 - December 31	36
January 1 - January 31	28
February 1 - February 28	20

(h) Conflict with state law: Nothing in this section shall be construed as imposing a license tax on any such vehicle in excess of the amount authorized to be imposed by the laws of the state. (Tax Code 1941, § 84; Ord. of 11-12-57; Ord. of 12-22-64; Ord. of 11-8-66; Ord. of 7-9-68; Ord. of 1-28-69; Ord. of 12-23-75; Ord. of 3-1-79; Ord. No. O-88-105, § 1,5-24-88, eff. 7-1-88; Ord. No. O-88-305, § 1,11-22-88; Ord. No. O-89-112, § 1, 5-23-89, eff. 7-1-89; Ord. No. O-96-198, 6-25-96)

Sec. 36-131. Motor vehicle carriers.

(a) The annual charge imposed upon any motor vehicle carrier for the privilege of using the streets, road, routes and bridges of the city shall be as hereinafter set forth, and said charge shall be in addition to any and all other licenses and taxes levied under the laws of the state or the ordinances of the city on said motor vehicle carrier. Such charge shall be for each mile operated over the public streets, roads or routes, including bridges, of the city, during the year for which said license is issued, and shall be as follows:

- (1) On any vehicle weighing five thousand (5,000) pounds or less, one-fifth cent (\$0.002) per mile;
- (2) On any vehicle weighing over five thousand (5,000) pounds and less than fifteen thousand (15,000) pounds, two-fifths cent (\$0.004) per mile;
- (3) On any vehicle weighing more than fifteen thousand (15,000) pounds, three-fifths cent (\$0.006) per mile.

(b) The charges described under this section shall be estimated as hereinafter prescribed, and such estimated charges (subject, however, to adjustment in the following year) shall be paid annually in advance at the time of registration. After the initial registration, registration shall be renewed annually on or before the first day of April.

(c) At the time of registration, a motor vehicle carrier which has not used the streets of the city during the preceding calendar year shall pay charges for the current year upon the basis of a certified estimate of the use of the streets to be made during such year; provided, however, a proper adjustment of charges on the basis of actual operations during such year shall be made at the time of the next succeeding registration in the year following, at which time such motor vehicle carrier shall pay to the city any underpayment, or the city shall refund or credit on the then current annual charge of such motor vehicle carrier any overpayment occasioned by any difference between the estimated and the actual operations of such motor vehicle carrier.

(d) At the time of registration, a motor vehicle carrier which has used the streets of the city during the preceding calendar year may either pay charges for the current year on a basis of such certified estimated described in paragraph (c), or may pay charges for such current year on the basis of its operations within the city during the preceding calendar year; provided, however, that in either event a proper adjustment of charges, as set forth in paragraph (c), shall be made at the time of the next succeeding registration in the year following. (Tax Code 1941, § 87; Ord. of 12-20-51)

Sec. 36-132. Personal property tax and parking ticket prerequisite.

(a) No officer, agent or employee of the city authorized to issue any motor vehicle license plate required under the provisions of this division shall issue any motor vehicle license plate to any person unless and until such person shall exhibit to such officer, agent or employee evidence of filing, signed by the commissioner of the revenue, or his designee, setting forth that the taxable tangible personal property annual filing has been made. The requirements of this section shall be in addition to the requirements of existing law but shall not be applicable to any person who, under the laws of the commonwealth, was not legally assessable with personal property for the preceding tax year. Any person falsely certifying to any fact required to be certified by this section shall be deemed guilty of a class 4 misdemeanor. Any officer, agent or employee authorized to issue a motor vehicle license plate who shall issue the same in violation of this section shall be guilty of a misdemeanor.

(b) No motor vehicle, trailer or semi-trailer shall be licensed by the city unless and until the applicant for such license shall have produced satisfactory evidence to the city motor vehicle license officer of the following: (i) that all personal property taxes upon the motor vehicle, trailer or semi-trailer to be licensed have been paid which have been properly assessed or are assessable against the applicant by the city; (ii) that any delinquent personal property taxes assessed or assessable by the city on any other motor vehicle, trailer or semi-trailer previously or currently owned by the applicant have been paid; and, the personal property taxes assessed or assessable by the city on any tangible personal property used or usable as a dwelling titled by the department of motor vehicles and owned by the applicant have been paid.

(c) No motor vehicle, trailer, or semitrailer shall be licensed by the city unless all fines owed to the city by the owner of the vehicle, trailer, or semitrailer for violation of the city's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles. (Tax Code 1941, §§ 84, 86.1; Ord. of 9-9-75; Ord. of 3-1-79; Ord. No. O-94-041, 2-22-94; Ord. No. O-02-041, 3-12-02)

Sec. 36-133. Transfers.

(a) Any person who has paid a license tax required by this division and who sells or transfers a motor vehicle, trailer, or semitrailer, currently licensed in the city, may have the current city license plate assigned to another vehicle of like design and weight titled in such owner's name according to the provisions of state law, without the payment of any additional license fee. Should such person have been issued a license decal in lieu of a license plate for such vehicle, such person shall, upon furnishing to the city motor vehicle license officer proof by affidavit or otherwise, satisfactory to such officer, that the license decal has been removed from the vehicle for which it was originally issued and destroyed, and upon the payment of a fee of one dollar (\$1.00), such person shall be issued a new license decal for such other vehicle requiring same. In the event such other vehicle shall be of greater weight or of larger capacity than the one for which the license was originally issued and paid, such person shall pay, in addition to said fee of one dollar (\$1.00), an amount equal to the difference between the license paid and the one required to be paid for such other vehicle.

(b) Upon the death of the owner of a motor vehicle, trailer or semitrailer, the city license plate or license decal assigned said vehicle shall continue in force as a valid license until the end of the year for which the license is issued, or until the ownership of the vehicle is transferred before the end of the license year by the executor or administrator of the estate of the deceased owner or by a legatee or distributee of the estate. (Tax Code 1941, § 85; Ord. of 11-10-70)

Sec. 36-134. Duplicates.

In the event any license decal issued under this Division shall be lost or stolen after the city has made delivery of the decal to the vehicle owner or the owner's agent, the vehicle owner shall pay the decal fee in full to obtain a duplicate license decal. In other instances of lost or stolen license decals, the person to whom the decal was issued shall make application for and obtain a duplicate or substitute therefor upon

furnishing information of such fact, by affidavit or such other evidence that is satisfactory to the director of finance, and upon the payment of the fee of one dollar (\$1.00) for each duplicate or substitute license decal. In instances of decal mutilation or vehicular damage, the person to whom the decal was issued shall make application for and obtain a duplicate or substitute therefor upon furnishing either a portion of the mutilated decal or a paid repair bill for the damage which states that the decal was mutilated as part of the vehicular damage or repair, and upon the payment of the fee of one dollar (\$1.00) for each duplicate or substitute license decal. (Tax Code 1941, § 85; Ord. of 11-10-70; Ord. No. O-90-236, 7-10-90)

Sec. 36-135. Refunds.

(a) Any person holding a current city license plate or license decal who moves to another state and takes their vehicle with them or who disposes of the vehicle for which the license plate or decal was issued and does not purchase another vehicle, may, upon furnishing to the city motor vehicle license officer proof by affidavit or otherwise, satisfactory to such officer, that the vehicle has been moved to another state or that the license plate or decal has been removed from the vehicle for which it was originally issued and destroyed, together with a sworn statement addressed to the director of the finance department, setting forth that the vehicle for which the license plate or license decal was issued has been moved to another state or sold, request of the director of a refund of the unused portion of the city license tax paid for such license plate or license decal, the form of which statement and request to be furnished by the city motor vehicle license officer, and to contain such other information as the director of the finance department and license officer may deem pertinent. Upon certification by the license officer that the vehicle has been moved to another state or that the proper license plate or license decal has been removed from the vehicle for which it was originally issued and destroyed, and that the vehicle for which the license plate or license decal was issued has been sold and properly transferred according to the provisions of state law, the director of the finance department shall refund to the applicant the following percentages of the total cost of the license tax paid for such city license plate or license decal:

<u>Period</u>	<u>Percentage</u>
March 1 - April 30	100
May 1 - May 31	92
June 1 - June 30	84
July 1 - July 31	76
August 1 - August 31	68
September 1 - September 30	60
October 1 - October 31	52
November 1 - November 30	44
December 1 - December 31	36
January 1 - January 31	28
February 1 - February 28	20

Any person desiring a refund must apply for such refund prior to February 28 of the succeeding tax year. All refunds shall be paid out of current revenues and charged against current motor vehicle license funds.

(b) Except as provided in this section, no other refund shall be made. (Tax Code 1941, § 85; Ord. of 11-10-70; Ord. of 2-14-78; Ord. No. O-96-198, 6-25-96)

Sec. 36-136. Display of plates.

Every motor vehicle, trailer or semitrailer licensed in the city shall have shown on the rear or the front thereof a city license plate, which shall be displayed at all times and maintained in such condition that the numbers thereon shall at all times be clearly legible. (Tax Code 1941, § 86; Ord. of 10-9-56)

Sec. 36-136.1 Regional enforcement of motor vehicle licenses.

(a) Pursuant to the authority granted by sub-section 46.2-752(k) of the Code of Virginia, 1950, as amended, the city hereby enacts an ordinance requiring the owner or operator of any motor vehicle, trailer,

or semitrailer to display while in the city, a valid local license issued by any jurisdiction who requires a license and has entered into a compact with the city pursuant to Virginia Code Section 46.2-752(k), provided that the owner or operator is required by the jurisdiction of situs, as provided in Virginia Code section 58.1-3511, to obtain and display such license.

(b) It shall be unlawful for any person to operate a motor vehicle, trailer, or semitrailer on any street, highway, road, or other traveled way in the city unless a valid local license decal issued by the situs jurisdiction of such vehicle is displayed thereon as required by the ordinance of the situs locality. The fact that a license tax of the situs jurisdiction has been paid on such vehicle after a violation of this ordinance shall have occurred shall not bar prosecution for a violation of this section.

(c) Any violation of this section shall constitute a class 4 misdemeanor, the punishment ranges for which are set forth in Virginia Code section 18.2-11.

(d) When the operator of the motor vehicle is the owner of the cited vehicle a violation may not be discharged by payment of the requisite fine except upon presentation of satisfactory evidence that the required license has been obtained. When the operator of the vehicle is not the owner of the cited vehicle a violation may be discharged by payment of the requisite fine. Any fine paid under this section shall be deposited to the credit of the general fund of the city and no accounting need be made thereof to the situs jurisdiction of any such vehicle. (Ord. No. O-95-072, 3-28-95; eff. 6-1-95)

Sec. 36-137. Penalties.

(a) Any person who operates, parks or who allows the parking of any motor vehicle, trailer or semitrailer on any public street or public right-of-way, or on any privately owned street, mall or parking area that is open to the public or utilized for public use within the Lynchburg city limits without the payment of the license required or without displaying the city decal shall be punished by a fine of one hundred dollars (\$100.00) and a violation may not be discharged by payment of the fine and no portion of the fine may be suspended or discharged except upon presentation of satisfactory evidence that the required license decal has been obtained and properly displayed upon the motor vehicle, trailer or semitrailer.

(b) Any person who shall display, cause or permit to be displayed any fictitious or altered city license decal, or have in his possession any such decal, knowing the same to be fictitious or to have been altered, shall be deemed guilty of a class 2 misdemeanor. (Tax Code 1941, § 86; Ord. of 10-9-56; Ord. No. O-84-014, § 1, 1-24-84; Ord. No. O-90-236, 7-10-90; Ord. No. O-91-068, 4-9-91)

Secs. 36-138—36-148. Reserved.

ARTICLE III. TAXES ON REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY

Sec. 36-149. Tax rates—Tangible personal property in general; exempt household property.

(a) Effective on and after July 1, 1990, for the fiscal year beginning July 1, 1990 and ending June 30, 1991, and also for each and every fiscal year thereafter beginning July first and ending June thirtieth, of each such year, unless otherwise changed by council, on each one hundred dollars (\$100.00) of the assessed value of the following-named personal property, there shall be a tax of three dollars and thirty cents (\$3.30) for the purpose of establishing and maintaining the public schools of the city and for the purpose of providing the interest on loans negotiated and bonds issued and to be issued by the city for school purposes, and for general governmental purposes, to wit: Horses, mules, asses, jennets, cattle, sheep, goats, hogs, vehicles of all kinds, books, pictures, mechanics' tools, machinery, farming implements, watches, clocks, musical instruments of all kinds, the aggregate value of household and kitchen furniture, value of all gold and silverware, plated ware and jewelry, and the market value of all other tangible personal property not specifically enumerated including the property separately classified by Sections 58-829, 58-829.2 and 58-829.3 of the Code of Virginia, 1950; except and provided that household goods and personal effects

owned and used by an individual or by a family or household incident to maintaining an abode which are defined as separate items of taxation and classified by Section 58-829.1 of the Code of Virginia, 1950, as amended, are exempt from the tax imposed by this section, effective for the fiscal year beginning July 1, 1973 and ending June 30, 1974 and for each fiscal year thereafter.

(b) Every taxpayer owning any of the property mentioned in this section, on January first of any year, shall file a return thereof with the commissioner of the revenue on the form so prescribed. Such return shall be filed on or before April fifteenth of each year.

(c) Each fiduciary shall file the returns mentioned in this section with the commissioner of the revenue having jurisdiction.

(d) All city taxes for each year or fiscal year on tangible personal property assessed under this section shall be paid pursuant to the provisions of Section 36-171. (Tax Code 1941, § 113.17; Ord. of 9-9-75; Ord. No. O-90-136, 5-15-90, eff. 7-1-90)

Sec. 36-149.1. Personal property tax on motor vehicles, trailers and boats.

(a) Tax liability. There shall be a personal property tax at the rate established in Section 36-149 on motor vehicles, trailers and boats (taxable property) which have a situs within the city on January first of each year and which acquire a situs within the city on or after January second, 1985, and all years thereafter. When taxable property acquires a situs within the city on or after January second, the personal property tax for that year shall be prorated on a monthly basis. When taxable property with a situs in the city is transferred to a new owner, personal property tax will be assessed to the new owner prorated on a monthly basis for the portion of the tax year during which the new owner owns the taxable property. For purposes of proration, a period of more than one-half (1/2) of a month shall be counted as a full month and a period of less than one-half (1/2) of a month shall not be counted. All taxable property shall be assessed as of January first of each year or, if it acquires situs or has its title transferred after January first, as of the first day of the month in which the taxable property acquires situs within the city or has its title transferred.

(b) Refunds. When any taxable property loses its situs within the city or its title is transferred, the taxpayer shall be relieved from personal property tax and receive a refund for personal property tax already paid, prorated on a monthly basis, upon application to the commissioner of the revenue; provided, that application is made within three (3) years from the last day of the tax year during which the taxable personal property lost situs or had its title transferred. No refund of less than five dollars (\$5.00) shall be issued to a taxpayer, unless specifically requested by the taxpayer. No refund shall be made if the taxable property acquires a situs within the Commonwealth in a non pro-rating locality. When any taxable property loses its situs within the city and acquires a situs within another state the taxpayer shall not be entitled to a refund except upon a showing of sufficient evidence that the taxpayer has been assessed and has paid taxes on such taxable property for the remainder of the tax year to such state.

(c) Filing dates. Returns of all taxable property with a situs within the city on January first of a tax year shall be filed on or before April fifteenth of each tax year. Returns of all taxable property which acquires a situs within the city or which has its title transferred after January first of a tax year shall be filed within thirty (30) days of the date on which situs is acquired or title is transferred.

(d) Payment dates. Taxes on all taxable property with a situs within the city on January first of each year shall be paid on or before November fifteenth of such tax year. Taxes on all taxable property which acquires a situs within the city or has its title transferred after January first of a tax year and before the City's first cut-off date for the preparation of personal property tax bills for the tax year shall be paid on or before November fifteenth of the tax year. Taxes on all taxable property which acquires a situs within the city or has its title transferred after the tax year shall be paid on or before February fifteenth of the following tax year.

(e) Late payment penalty. Any person who fails to pay any personal property taxes on or before the due date as provided above shall incur a penalty of ten per cent (10%) of the total amount of the tax levied, including any amount to be paid by the Commonwealth, which penalty shall become a part of the taxes due.

(f) Exemption when taxes paid elsewhere in commonwealth. An exemption from this tax and penalties arising therefrom shall be granted for any tax year or portion thereof during which the property was legally assessed by another jurisdiction in the commonwealth, and such tax on the assessed property was paid.

(g) Notwithstanding any other provisions of this chapter, the provisions of this section shall also apply to all motor vehicles, trailers and boats used in a trade or business which acquire a situs within the city during a tax year. (Ord. No. O-84-277, § 1, 11-27-84, eff. 1-1-85; Ord. No. O-91-242, 10-8-91; Ord. No. O-93-299, 11-9-93; Ord. No. O-01-205, 11-27-01; Ord. No. O-02-042, 3-12-02)

Sec. 36-149.2. Exemption for Lynchburg Life Saving & First Aid Crew, Inc.

(a) The motor vehicles of volunteer members of the Lynchburg Life Saving & First Aid Crew, Inc. as set forth below are declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property.

(b) The motor vehicle must be owned by the volunteer member or leased by the volunteer member and the volunteer member must be obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle and said vehicle is regularly used by said volunteer member to respond to calls of the Lynchburg Life Saving and First Aid Crew, Inc.

(c) The minimum eligibility and participation requirements and the form of the certification required by this section shall be approved by the city council.

(d) The volunteer shall furnish the commissioner of the revenue with a certification by the chief of the volunteer group by April 15 of each year that the volunteer is a member of the volunteer crew who regularly responds to calls or regularly performs other duties, and the motor vehicle owned or leased by the volunteer member shall be identified. The commissioner of revenue shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the April 15 deadline.

(e) Each household shall be allowed only one special classification under this section.

(f) A replacement vehicle may be certified and classified pursuant to this section when the vehicle certified at the immediately prior certification date is transferred during the tax year.

(g) No tax shall be levied upon the aforesaid classification of personal property. Ord. No. O-98-201, 9-8-98, eff. 1-1-98)

Sec. 36-150. Same—Personal property of persons, firms or corporations not taxed on capital and not having a home office in city.

Effective on and after July 1, 1990, for the fiscal year beginning July 1, 1990 and ending June 30, 1991, and also for each and every fiscal year thereafter beginning July first and ending June thirtieth of each year, unless otherwise changed by council, all persons not taxed on their capital and not having their home office in this city shall pay a tax of three dollars and thirty cents (\$3.30) on each one hundred dollars (\$100.00) of all personal property in the city; and should such person decline to give the commissioner of the revenue a list within the time specified by law, or within thirty (30) days of the necessary blank forms having been mailed or delivered to such person, the commissioner shall at once proceed to assess the property as he deems fair and just. (Tax Code 1941, § 114.17; Ord. of 6-27-72; Ord. No. O-90-135, 5-15-90, eff. 7-1-90)

Sec. 36-151. Same—Machinery used in certain manufacturing and mining businesses.

Effective on and after July 1, 1972, for the fiscal year beginning July 1, 1972, and ending June 30, 1973, and also for each and every fiscal year thereafter beginning July first and ending June thirtieth of each such year, unless otherwise changed by council, on each one hundred dollars (\$100.00) of the assessed value of all machinery and tools, except machinery and equipment used by farm wineries as defined by Section 4-2(10A) of the Code of Virginia, used in the manufacturing, mining, processing or reprocessing, radio or television broadcasting, dairy, dry cleaning or laundry business, pursuant to Section 58.1-3507 of the Code of Virginia, 1950, as amended, there shall be a tax of three dollars (\$3.00) for the purpose of establishing and maintaining the public schools of the city and for the purpose of providing the interest and sinking fund on loans negotiated and bonds issued by the city for school purposes, and for general governmental purposes.

Provided, however, that on and after July 1, 1984, for the fiscal year beginning July 1, 1984, and ending June 30, 1985, and for each fiscal year thereafter until the year ending June 30, 1995, any business firm which may be designated as a “qualified business firm” pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, the Urban Enterprise Zone Act, shall receive the following tax credits: For the first two tax years for which the firm is assessed this tax, there shall be a 100% tax credit; for the third year a 75% tax credit; for the fourth year a 50% tax credit, and for the fifth year a 25% tax credit. Thereafter, the tax shall be at the rate provided for in this section. Any business firm which may be designated as a “qualified business firm” on or after July 1, 1995 pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, (the Urban Enterprise Zone Act), shall be entitled to the following tax credits: for the first three (3) tax years for which the firm is assessed this tax, there shall be a one hundred per cent 100% tax credit, and for the fourth and fifth years a fifty per cent (50% tax credit. Thereafter the tax shall be at the rate provided for in this section.

Provided, however, that on and after July 1, 2002, for the fiscal year beginning July 1, 2002, and ending June 30, 2003, and for each fiscal year thereafter, any business which is designated as a “technology business” and which business locates in either of the city’s technology zones on or after July 1, 2002, shall receive the following tax reimbursements: For the first three (3) tax years for which the business is assessed this tax, there shall be a one hundred per cent (100%) tax reimbursement; and, for the next two (2) tax years for which the business is assessed this tax a fifty per cent (50%) tax reimbursement. (Tax Code 1941, § 116.17; Ord. of 6-27-72; Ord. No. O-85-010, § 1, 1-22-85, eff. 7-1-84; Ord. No. O-87-140, § 1, 7-14-87; Ord. No. O-95-232, 8-8-95; Ord. No. O-02-154, 3-26-02)

Sec. 36-151.1. Tax rates—Machinery and tools used in certain food processing businesses.

Pursuant to the authority granted to the city by Sec. 58.1-3508.1 of the Code of Virginia, 1950, as amended, effective on and after July 1, 1997, for the fiscal year beginning July 1, 1997 and ending June 30, 1998 and for every fiscal year thereafter unless otherwise changed by council, on each one hundred dollars (\$100) of the assessed value of all machinery and tools used by a food processing plant that is located in a designated enterprise zone there shall be a tax of three dollars (\$3.00) for the purpose of establishing and maintaining the public schools of the city and for the purpose of providing the interest and sinking fund of loans negotiated and bonds issued by the city for school purposes, and for general governmental purposes. Provided, however, that each food processor located in an enterprise zone shall receive the following tax credits for each product line and/or manufacturing or warehouse expansion constructed within the first eight (8) years of its operation: for the first five (5) tax years there shall be a one hundred percent (100%) tax credit and for tax years six (6) through ten (10) there shall be a fifty percent (50%) tax credit. Thereafter, the tax shall be at the rate provided for in this section. (Ord. No. O-96-273, 10-8-96)

Sec. 36-152. Same—Real estate.

Effective on and after July 1, 1996, for the fiscal year beginning July 1, 1996, and ending June 30, 1997, and for each and every fiscal year thereafter beginning July 1 and ending June 30 of each such year, unless otherwise changed by council, on each one hundred dollars (\$100.00) of the assessed value of real estate in

this city and the improvements thereon there shall be a tax of one dollar eleven cents (\$1.11) for the purpose of establishing and maintaining the public schools of the city, and for the purpose of providing the interest and sinking fund on loans negotiated and bonds issued or to be issued by the city for school purposes, and for general governmental purposes. Provided, however, that effective on and after July 1, 1984, for the fiscal year beginning July 1, 1984, and ending June 30, 1985, and for each and every fiscal year thereafter beginning July 1 and ending June 30 of each such year, unless otherwise changed by council, for each one hundred dollars (\$100.00) of the assessed value of real estate and tangible personal property of public service corporations other than railway companies not equalized by the state corporation commission pursuant to Section 58-512.1 of the Code of Virginia (1950), as amended, there shall be a tax of two dollars eighty cents (\$2.80). (Ord. No. O-95-177, 6-13-95; Ord. No. O-96-140, 5-28-96)

Sec. 36-153. Same—Commonwealth-owned real estate.

(a) There is hereby imposed upon all real estate owned by the Commonwealth of Virginia located within the corporate limits of the city a service charge in lieu of real estate taxes.

(b) The rate per one hundred dollars (\$100.00) of assessed value for such service charge shall be fixed annually by the city director of fiscal management within thirty-one (31) days after the beginning of the fiscal year for which it is assessed, pursuant to the provisions of Section 58-16.2 of the Code of Virginia (1950) as amended.

(c) Such charge shall be due and collectible, including penalties and interest for late payments, if any, as real estate taxes assessed and collected under Section 36-171.

(d) The charge assessed under this section shall be assessed for the fiscal year commencing July 1, 1978, and annually thereafter until changed by council.

(e) Pursuant to this section, the director of fiscal management reported to council on August 8, 1978, the following schedule of service charges on tax exempt property for fiscal year 1978-1979:

(1) For properties receiving police, fire and refuse collection services, a rate of twenty-nine cents (\$0.29) per one hundred dollars (\$100.00) of assessed value for property located in the old city and twenty-five cents (\$0.25) per one hundred dollars (\$100.00) of assessed value for property in the annexed area.

(2) For those properties classified as faculty and staff housing, a rate of seventy-two and one-half cents (\$0.725) per one hundred dollars (\$100.00) for property in the old city and sixty-two and one-half cents (\$0.625) per one hundred dollars (\$100.00) in the annexed area. (Tax Code 1941, § 117.18; Ord. of 2-28-78)

Sec. 36-154. Certified pollution control equipment and facilities.

(a) Effective on and after July 1, 1995, for the fiscal year beginning July 1, 1995 and ending June 30, 1996, and for each fiscal year thereafter, unless otherwise changed by city council, certified pollution control equipment and facilities as defined herein, are hereby declared to be a separate class of property and shall be taxed at eighty-five percent (85%) of its assessed value.

(b) As used in this section:

(1) "Certified pollution control equipment and facilities" shall mean any property, including real or personal property, equipment, facilities or devices used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the commonwealth which the state certifying authority having jurisdiction with respect to such property has certified to the department of taxation as having been constructed, reconstructed, erected or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination.

(2) "State certifying authority" shall mean the state water control board for water pollution, and the state air pollution control board for air pollution, and shall include any interstate agency authorized to act in place of a certifying authority of the commonwealth. (Ord. No. O-95-177, 6-13-95)

Sec. 36-154.1. Certified solar equipment, facilities or devices and certified recycling equipment, facilities or devices.

(a) Effective on and after July 1, 1995, for the fiscal year beginning July 1, 1995 and ending June 30, 1996, and for each fiscal year thereafter, unless otherwise changed by city council, certified solar equipment, facilities or devices and certified recycling equipment, facilities or devices, as defined herein, are hereby declared to be a separate class of property and shall be taxed at eighty-five percent (85%) of its assessed value.

(b) As used in this section:

(1) "Certified recycling equipment, facilities or devices" means machinery and equipment which is certified by the department of waste management as integral to the recycling process and for use primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the commonwealth and used in manufacturing facilities or plant units which manufacture, process, compound, or produce for sale recyclable items of tangible personal property at fixed locations in the commonwealth.

(2) "Certified solar equipment, facilities or devices" means any property, equipment, facilities or devices certified by the city's inspections division to be designed and used primarily for the purpose of providing for the collection and use of incident solar energy for water heating, space heating or cooling, or other application which would otherwise require a conventional source of energy such as petroleum products, natural gas or electricity.

(3) "Local certifying authority" means the city's inspections division. The state board of housing and community development shall promulgate regulations setting forth criteria for certifiable solar energy equipment. The department of waste management shall promulgate regulations establishing criteria for recycling equipment, facilities or devices.

(c) Any person residing in the city may proceed to have solar energy equipment, facilities or devices certified as exempt, wholly or partially from taxation by applying to the city's inspections division. If, after examination of such equipment, facility or device, the inspections division determines that the unit primarily performs any of the functions set forth in subsection (b) and conforms to the requirements set by the regulations of the state board of housing and community development, the inspections division shall approve and certify such application. The inspections division shall forthwith transmit to the commissioner of the revenue those applications properly approved and certified by the inspections division as meeting all Of the requirements qualifying such equipment, facility or device for exemption from taxation. Any person aggrieved by a decision by the inspections division may appeal such decision to the local board of building code appeals, which may affirm or reverse such decision.

(d) Upon receipt of the certificate from the inspections division or the state department of waste management, the commissioner of the revenue shall proceed to determine the value of such qualifying solar energy equipment, facilities or devices or certified recycling equipment, facilities or devices. The exemption provided by this section shall be effective beginning in the next succeeding tax year and shall be permitted for a term of not less than five years.

(e) It shall presumed for the purpose of the administration of this section, and for no other purposes, that the value of such qualifying solar energy equipment, facilities and devices is not less than the normal cost of purchasing and installing such equipment, facilities and devices. (Ord. No. O-95-177, 6-13-95)

Secs. 36-155—36-163. Reserved.

ARTICLE IV. ASSESSMENT AND COLLECTION**Sec. 36-164. Penalties; fines; assessment where persons fail to give assessing officer required information.**

If any person, firm or corporation shall continue the business, employment or profession after the expiration of a license previously issued, without obtaining a new license, such person, firm or corporation

shall be subject to a penalty of ten (10) per cent of the amount of the license tax which was due and payable, plus interest at the rate of ten (10) per cent per annum, as provided in section 36-126.9, in addition to the license tax imposed by law, and such penalty and interest shall be assessed and paid along with the license tax and shall become a part of the license tax; but such penalty shall in no case be less than one dollar (\$1.00). If such failure to obtain a new license be continued for a longer period than one (1) month, such person, firm or corporation shall be guilty of a class 3 misdemeanor for each separate offense committed after such expiration of such month, and the taxes, penalty and interest provided in the preceding part of this section shall also be assessed against such person, firm or corporation and collection thereof enforced in the manner provided by law for the enforcement of other taxes. In such case, if such person, firm or corporation shall, on demand, fail or refuse to file with the assessing officer the information necessary to enable him to assess a license tax according to the basis provided by law, such assessing officer shall assess such license tax upon the best information he can obtain, adding thereto the penalty and interest prescribed by law.

If any person, firm or corporation shall, in violation of law, commence to prosecute any business, employment or profession without a license, such person, firm or corporation shall be guilty of a class 3 misdemeanor for each separate offense. Such conviction shall not relieve any such person, firm or corporation from the payment of the license tax prescribed by law. In addition to the license tax imposed by law, such person, firm or corporation shall be subject to a penalty of ten (10) per cent of the amount of the license tax which was due and payable, plus interest at the rate of ten (10) per cent per annum, as provided in section 36-126.9, and such penalty and interest shall be assessed and paid along with the license tax and shall become a part of the license tax; but such penalty shall in no case be less than one dollar (\$1.00). The collection of such taxes, the penalties and interest shall be enforced in the manner provided by law for the enforcement and collection of other taxes. In such case, if such person, firm or corporation shall, on demand, fail or refuse to file with the assessing officer the information necessary to enable him to assess a license tax according to the basis provided by law, such assessing officer shall assess such license tax upon the best information he can obtain, adding thereto the penalty and interest prescribed by law. (Tax Code 1941, § 118; Ord. of 12-11-56; Ord. No. O-81-017, § 2, 1-27-81; Ord. No. O-01-205, 11-27-01)

Sec. 36-165. Duties of commissioner of the revenue in general.

It shall be the duty of the commissioner of the revenue to keep a book in which he shall classify all the branches of businesses and occupations upon which a license tax is imposed by this code, and show the amount of assessment on each license, the name of the person against whom assessed and the period for which said license is issued. At the end of each month he shall deliver to the city auditor a report showing the entries in his books during the preceding month, properly classified. (Tax Code 1941, § 119; Ord. of 1-8-52)

Sec. 36-166. Penalty for failure to make returns to commissioner.

Whenever any person who is required by the provisions of this code to file any application, return or report of his activities, sales, commissions, fees, receipts or other things to the commissioner of the revenue at certain specified times, shall fail to do so, he shall be fined ten (10) per cent of the tax assessable on such application, return or report or ten dollars (\$10.00), whichever is greater. (Tax Code 1941, § 120; Ord. No. O-87-278, § 1, 12-8-87)

Sec. 36-167. Reports to city attorney of failure to make return or pay license tax.

It shall be the duty of the commissioner of the revenue and the collector of the city taxes promptly to report to the city attorney every case of default by any person in making returns or paying license taxes under this code. (Tax Code 1941, § 121)

Sec. 36-168. Reports to commissioner of the revenue by persons leasing property for use for sale of oil products.

(a) Every person who lets or sublets any property in the city to any other person to be used for the sale of oil products, or which permits any property owned or leased by him to be used for such purpose by any other person, other than his employee, shall report to the commissioner of the revenue on January first of each license year the name of the person to whom such property has been let, sublet or permitted to be used. Such information shall be reported to the commissioner at any other time upon the written request of the commissioner.

(b) If, for any reason, such lease, sublease or permission is terminated during any license year, and a new lease, sublease or permission is granted to a different person for such purpose, the name of such different person shall be immediately reported to the commissioner of the revenue. (Tax Code 1941, § 122)

Sec. 36-169. Assessment of vehicles, machinery, tools, and other tangible personal property used or held in connection with any mining, manufacturing, or other business, trade, occupation or profession.

(a) In assessing the value of automotive vehicles, the commissioner of the revenue shall use the values listed in some recognized publication dealing with the market value of such automotive vehicles as of January first of the current year.

(b) In assessing the value of machinery, tools, and other tangible personal property (except automotive vehicles which are to be assessed as set out in paragraph (a) above) used or held in connection with any mining, manufacturing, or other business, trade, occupation or profession, the commissioner of the revenue shall be, and he is, hereby authorized and directed to require each person making a return on such machinery, tools, or other tangible personal property to make return under oath of the original book cost (before depreciation) of all such machinery, tools, and other tangible personal property listed on the person's books on the first day of January of each year in which the assessment is made, as well as the original book cost (before depreciation) of all machinery, tools, and other tangible personal property used or held in connection with any such mining, manufacturing, or other business, trade, occupation or profession, but not listed on the person's books on the aforesaid date by reason of having been fully depreciated; such information to be used as a basis of assessment, which shall be at the fair market value of such machinery, tools, and other tangible personal property. In the event original book cost figures are not available, the person making such return shall make a bona fide effort to estimate the same; provided, however, that in any case in which the commissioner of the revenue has reason to believe that any return made on any such machinery, tools, and other tangible personal property by any person is inadequate, the said commissioner of the revenue shall, in addition to such other powers as he may have, be authorized to examine, or cause to be examined, any and all books and records of the person making such return, and may also require the attendance at his office of the person making such return and examine such person under oath concerning the same.

(c) Definition: The term "original book cost" whenever used in this section shall be construed to mean the invoice price at the time of purchase, plus all freight and handling charges, plus all installation costs. (Tax Code 1941, § 123; Ord. of 12-12-49)

Sec. 36-170. Collection of taxes where taxpayer is moving or contemplating moving from city.

Should it come to the knowledge of the collector of city taxes that any person owing taxes or levies to the city is moving, or contemplates moving from the city prior to the time that said penalty may be added by the council, the collector shall have the right to collect the taxes by distress, garnishment or otherwise at any time after the tax bills shall come into his hands. (Tax Code 1941, § 124)

Sec. 36-171. When tax installments due; penalty; partial payments.

(a) Effective on and after July 1, 1974, one-fourth of the city tax assessed on real estate for each fiscal year shall be paid to the city collector between November first and November fifteenth, inclusive, of the fiscal year for which the tax is assessed, one-fourth shall be paid to the city collector between January first and January fifteenth, inclusive, of the fiscal year for which the tax is assessed, one-fourth shall be paid to the city collector between March first and March fifteenth, inclusive, of the fiscal year for which the tax is assessed, and the remaining one-fourth paid to the city collector between May first and May fifteenth, inclusive, of the fiscal year for which said tax is assessed.

(b) If any installment of taxes due on any particular piece of property shall not be paid as and when due as above set forth, said installment shall at once become due and collectible with ten (10) per cent penalty thereon.

(c) All city taxes for each year or fiscal year on tangible personal property, assessed under section 36-149 of this code, and all city taxes for each year or fiscal year on machinery and tools, assessed under section 36-151 of this code, shall be paid to the city collector between November first and November fifteenth, inclusive, of the year or fiscal year for which the tax is assessed.

(d) If any city taxes due on any tangible personal property for any year or fiscal year assessed under section 36-149 of this code, or on machinery and tools, assessed under section 36-151 of this code, shall not be paid as and when as above provided, then the same shall have added thereto the penalty of ten (10) per cent on the total amount of taxes levied, including any amount to be paid by the Commonwealth.

(e) Interest at the rate of eight (8) per cent per annum from the first day of the month following the month in which taxes on real estate, tangible personal property and machinery and tools are required to be paid shall be collected upon the principal and applicable penalty then remaining unpaid. Effective on and after July 1, 1995, interest at the rate of ten (10) per cent per annum from the first day of the month following the month in which taxes are required to be paid, shall be collected upon the principal and applicable penalty remaining unpaid. No penalty for the failure to pay a tax or installment shall exceed ten (10) percent of the tax past due, or in the case of tangible personal property ten (10) percent of the tax levied, including any amount paid by the Commonwealth, or the sum of ten dollars (\$10.00), whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax levied.

(f) Effective on and after July 1, 1995, whenever the city utilizes the services of an attorney or collection agency to collect delinquent taxes on subjects other than real estate, reasonable attorney's fees or collection agency's fees shall be added to the amount of the delinquent tax bill. The attorney's fees or collection agency's fees shall not exceed twenty (20) per cent of the delinquent tax bill upon nonpayment. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity. No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Section 58.1-3980 of the Code of Virginia, 1950, as amended, so long as the appeal is filed within ninety days (90) of the date of the assessment, and for thirty (30) days after the date of the final determination of the appeal.

(g) Effective on and after July 1, 1995, the city shall collect an administrative fee from delinquent taxpayers to cover the administrative costs associated with the city's collection of delinquent taxes, which shall not exceed twenty percent of the delinquent tax bill associated with the collection of the delinquent taxes. Such administrative fee shall be in addition to all penalties and interest, and shall not exceed twenty dollars (\$20.00) for taxes collected subsequent to the filing of a warrant or other appropriate legal document but prior to judgement, and twenty-five dollars (\$25.00) for taxes collected subsequent to judgment. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity. No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Section 58.1-3980 of the Code of Virginia, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal. (Tax Code 1941, § 125; Ord. of 12-28-71; Ord. of 6-27-72; Ord. of 9-25-73; Ord.

of 6-10-75; Ord. of 6-12-79; Ord. No. O-94-302, 11-22-94; Ord. No. O-01-205, 11-27-01; Ord. No. O-02-042, 3-12-02)

Sec. 36-172. Powers to be exercised in collection of taxes.

On and after the date at which any penalty is added to any tax or installment of taxes under any provisions of this code, the collector of taxes is authorized and empowered to collect all taxes or levies due the city, with said penalties, by distress, garnishment, renting or action, or any other power now possessed or that may hereafter be given to any person charged with the collection of state taxes after the penalty for nonpayment of state taxes has been added. (Tax Code 1941, § 126)

Sec. 36-173. Special or omitted assessments.

Whenever any special or omitted assessments, including sidewalk and sewer assessments, and dues for sewer connections, or street paving come into the hands of the collector for collection, they shall be payable on demand. And on all amounts remaining unpaid for a period of thirty (30) days after demand, a penalty of five (5) per cent shall be added. (Tax Code 1941, § 127)

Sec. 36-174. Duties and powers of collector.

In the discharge of his duties under this code, the collector shall be governed and controlled, and his powers and obligations shall be fixed, by the provisions of Chapter VIII of the Charter. (Tax Code 1941, § 128)

Sec. 36-175. Exemption of real estate taxes on property of certain elderly or permanently and totally disabled persons.

(a) Exemption of taxation of real estate and mobile homes as defined herein below is hereby provided for qualified property owners who are not less than sixty-five (65) years of age or who are permanently and totally disabled and who are eligible therefor, pursuant to the provisions of 58.1-3210 of the Code of Virginia (1950), as amended.

(b) The exemption shall be administered by the city manager or his authorized delegates. Applications for real estate tax relief for the elderly or the permanently and totally disabled shall be filed with the commissioner of the revenue. Immediately upon approval of the application, it shall be forwarded to the department of finance for processing. The city manager is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations, including the requirement of answers under oath, as would be reasonably necessary to determine qualifications for exemption.

(c) Exemptions shall be granted to persons subject to the following provisions:

(1) Effective July 1, 2002, the person claiming the exemption must on June thirtieth immediately preceding the taxable year, have held title to the property for which the exemption is claimed.

(2) The head of the household occupying the dwelling and owning title, or partial title thereto, is sixty-five (65) years or older or permanently and totally disabled on June thirtieth of the year immediately preceding the taxable year. Such dwelling must be occupied as the sole dwelling of the person or persons claiming exemptions.

(3) The gross combined income of the owner during the year immediately preceding the taxable year, from all sources, shall be determined by the commissioner of the revenue to be an amount not to exceed twenty seven thousand dollars (\$27,000.00). Gross combined income shall include all income from all sources of the owner, spouse and of the owner's relatives living in the dwelling for which exemption is claimed except that the first four thousand dollars (\$4,000.00) of income of each relative, other than the spouse, of the owner, or owners, who is living in the dwelling, shall not be included in such total.

(4) The net combined financial worth of the owner as of June thirtieth of the year immediately preceding the taxable year shall be determined by the commissioner of the revenue to be an amount not to exceed

sixty thousand dollars (\$60,000.00). Net combined financial worth shall include the value of all assets, including equitable interest, of the owner and spouse of any owner, excluding the fair market value

of the dwelling and the land, not exceeding one (1) acre upon which it is situated and for which exemption is claimed, and excluding household furnishings, including furniture, household appliances and other items typically used in a home. The fair market value shall be determined by the city assessor.

(5) For the purposes of this section, the term “permanently and totally disabled” shall mean unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

(6) Applicants who are both sixty-five (65) years or older and permanently and totally disabled shall be entitled to only one (1) exemption.

(7) For the purposes of this section, a mobile home means an industrialized building unit constructed on a chassis for towing to the point of use and designed to be used without a permanent foundation for continuous year-round occupancy as a dwelling; or two (2) or more such units separately towable, but designed to be joined together at the point of use to form a single dwelling, and which is designed for removal to and installation or erection on other sites.

(d) Annually, and not later than August first of the taxable year, the person or persons claiming such an exemption must file a real estate affidavit with the commissioner of the revenue; provided, however, that in the case of filing hardship, as defined by the director of finance, or first-time applicants, such applications may be filed by November fifteen of such year. Such applicants will qualify for benefits insofar as funds are then available for the tax relief program within the budget appropriation for this purpose. Such affidavit shall set forth, in a manner prescribed by the city manager, the location, assessed value of the property, and the names of the related persons occupying the dwelling for which exemption is claimed, their gross combined incomes and net financial worth. If such person is under sixty-five (65) years of age such form shall have attached thereto a certification by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two (2) medical doctors licensed to practice medicine in the commonwealth to the effect that such person is permanently and totally disabled, as defined in subsection (c)(5). The affidavit of at least one of such doctors shall be based on a physical examination of such person by such doctor. The affidavit of one of such doctors may be based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability as defined in subsection (c)(5).

If, after an audit and investigation, the commissioner of the revenue determines that the person or persons are qualified for exemption, he shall so certify the same, and immediately forward the application form to the department of finance. The director of finance shall determine the percentage of exemption allowable, which exemption shall be deducted from the applicant's real estate tax liability. Such exemption shall be applicable only to the tax year following application therefor. Any real estate tax liability reduced by virtue of an exemption pursuant to this section shall be paid as and when due as provided by Section 36-171 of this code. If any installment of taxes due on such property shall not be paid as and when due pursuant to said Section 36-171, said installment shall at once become due and collectible with ten (10) per cent penalty computed upon the amount of adjusted taxes so due and payable. Such exemption shall remain effective for all purposes other than the amount of penalty so imposed. Interest shall be collected, as provided by Section 36-171 of this code, on taxes not paid as and when due.

(e) Amount of exemption. The director of finance shall determine the tax exemption in accordance with a schedule to be approved by the city council.

(f) Changes in respect to income, financial worth, ownership of property or other factors occurring during the taxable year for which the affidavit mentioned in paragraph (d) of this section is filed and having the effect of exceeding or violating the limitations and/or conditions provided shall nullify any relief of the tax liability for the current taxable year and the tax year immediately following.

(g) Any person or persons falsely claiming an exemption shall be guilty of a misdemeanor and upon conviction thereof may be punished as provided in Section 36-1. (Tax Code 1941, § 129; City Code 1990; Ord. No. O-96-248, 9-10-96, eff. 1-1-97; Ord. No. O-01-132, 7-10-01, eff. 1-1-02; Ord. No. O-02-004, 1-15-02)

Sec. 36-176. Refunds of local levies erroneously paid.

(a) Any local levies or classes of levies within the meaning of Title 58, Chapter 22, Article 2, Code of Virginia (1950), as amended, erroneously paid shall be refunded to the taxpayer as hereinafter provided. If the commissioner of the revenue is satisfied that he has erroneously assessed any applicant with any local levies as provided in Sections 58-1141 and 58-1142, Code of Virginia, he shall certify to the city collector the amount erroneously assessed. If the levies have not been paid, the applicant shall be exonerated from payment of so much thereof as is erroneous, and if such levies have been paid, the city collector or his successor in office shall refund to the applicant the amount erroneously paid, together with any penalties and interest paid thereon; provided, however, that no such refund, including penalties and interest, shall exceed the sum of one thousand dollars (\$1,000.00).

(b) Erroneously paid taxes refunded under the provisions of this section shall be repaid with interest at the same rate imposed by the city for delinquent taxes; provided, however, if such erroneous payments were in any way due to the fault or negligence of the taxpayer no interest shall be paid on the refund of the erroneously paid taxes. Such interest shall run from the date such taxes were required to be paid or were paid, whichever is later.

(c) When the commissioner of the revenue who made the assessment has been succeeded by another person, such person shall have the same authority as the commissioner making the original erroneous assessment, provided he makes diligent investigation to determine that the original assessment was erroneously made and certifies thereto to the city collector and to the city council.

(d) No refund shall be made in any case when application therefor was made more than three (3) years after the last day of the tax year for which such taxes were assessed. (Tax Code 1941, § 128.1; Ord. of 11-14-78; Ord. of 3-13-79; Ord. No. O-89-049, § 1, 2-28-89)

Sec. 36-177. Exemption of real estate taxes for certain rehabilitated residential and commercial and industrial real estate.

(a) Definitions. For the purpose of this section, the following words and phrases shall have the meaning respectively ascribed to them by this subsection unless another meaning shall clearly appear from the text:

(1) Substantially rehabilitated residential/multifamily (6 units or more) real estate: Real estate upon which there is an existing residential or multifamily structure, which is no less than fifty (50) years of age, and which has been so improved as to increase the assessed value of the structure by no less than forty (40) per cent, but without increasing the total square footage of such structure by more than fifteen (15) per cent.

(2) Substantially rehabilitated commercial or industrial real estate: Any real estate upon which there is an existing commercial or industrial structure which is no less than twenty-five (25) years of age, and which has been so improved as to increase the assessed value of the structure by no less than sixty (60) per cent.

(3) Base value: The assessed value of any structure covered by this section prior to the commencement of rehabilitation work, as determined by the city assessor upon receipt of an eligible application for rehabilitated real estate tax exemption.

(4) Rehabilitated real estate tax exemption: An amount equal to the increase in assessed value resulting from the substantial rehabilitation of a structure as determined by the city assessor and this amount only should be applicable to subsequent tax exemption.

(5) Taxable year: For the purpose of this section, the fiscal year from July 1 through June 30 for which such real estate tax is imposed for the exemption claimed.

(6) Owner: The person or entity in whose name the structure is titled or a leasee who is legally obligated to pay real estate taxes assessed against the structure.

(b) Rehabilitated real estate tax exemptions. It is hereby declared to be the purpose of this section to authorize a rehabilitated real estate tax exemption for substantially rehabilitated residential, multifamily, commercial or industrial real estate located anywhere within the City of Lynchburg. For each residential and multifamily property that qualifies, the rehabilitated real estate tax exemption shall be effective for a period of ten (10) years commencing on July 1 for any work completed during the preceding fiscal year. For each commercial or industrial property that qualifies, the rehabilitated real estate tax exemption shall be effective for a period of five (5) years commencing on July 1 for any work completed during the preceding fiscal year.

(c) Usual and customary methods of assessing. In determining the base value and the increased value resulting from substantial rehabilitation of residential, multifamily, commercial or industrial real estate, the city assessor shall employ usual and customary methods of assessing real estate.

(d) Eligibility requirements:

(1) An application to qualify a structure as a substantially rehabilitated residential, multifamily, commercial or industrial structure must be filed with the city assessor's office before work is started. Applications may be obtained from the city assessor's office.

(2) Upon receipt of an application for rehabilitated real estate tax exemption, an appraiser from the city assessor's office shall make a physical inspection of the structure and determine the assessed base value of the structure. If work has been started prior to the first inspection; the base value will include any work started and will reflect the market value of the structure as of the date of the first inspection.

(3) The application to qualify shall be effective for a period of two (2) years from the date of filing. No extensions of this time period will be granted.

(4) Upon completion of the rehabilitation, the owner of the property shall notify the city assessor in writing, and an appraiser from the city assessor's office shall physically inspect the property and perform an after rehabilitation appraisal to determine if it then qualifies for the rehabilitated real estate tax exemption.

(5) Upon determination that the property has been substantially rehabilitated pursuant to the terms of this section, the rehabilitated real estate tax exemption shall become effective for a period as provided in paragraph (b) hereof.

(6) Prior to a determination that the property has been substantially rehabilitated, the owner of the property shall continue to be subject to taxation upon the full value of the property, as otherwise authorized by this code.

(7) No improvements made upon vacant land nor total replacement of residential, multifamily, commercial or industrial structures shall be eligible for rehabilitated real estate tax exemption.

(8) No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the city assessor has verified that the rehabilitation indicated on the application has been completed.

(9) Multifamily residential structures after rehabilitation is completed shall remain as such for the remainder of the exemption period.

(10) There shall be a non-refundable fee of one hundred twenty-five dollars (\$125.00) for processing each residential application and two hundred fifty dollars (\$250.00) for processing each multi-family, commercial or industrial application under this section.

(11) The property must at all times be in compliance with all Lynchburg city codes including, without limitation, the building code, the rental housing code, the zoning ordinance and all other codes that relate to real estate within the City of Lynchburg. Failure to correct the violation within the required time, as provided by the building inspector, will void the remainder of the exemption. If a structure is damaged or destroyed and found to be uninhabitable, the exemption will be terminated.

(12) No exemption shall be granted if access to the entire property is denied to the city assessor's office or the inspections division.

(13) All taxes must be paid and current to be eligible for an exemption. If the city assessor is notified by the billing and collections department that the property is more than thirty (30) days delinquent on taxes, then the remainder of the exemption will be void.

(14) Only one rehabilitation exemption may be active for a parcel at any given time.

(e) Exemption to run with the land. The rehabilitated real estate tax exemption shall run with the land, and the owner of such property during each of the years of exemption shall be entitled to the amount of partial exemption. (Ord. No. O-82-252, § 1, 12-14-82; Ord. No. O-84-274, § 1, 11-27-84, eff. 7-1-84; Ord. No. O-88-277, § 1, 10-11-88; Ord. No. O-93-331, 12-14-93; Ord. No. O-03-040, 2-25-03, eff. 4-1-03)

Secs. 36-178—36-186. Reserved.

ARTICLE V. SPECIAL TAXES

DIVISION 1. GENERALLY

Sec. 36-187. Telephone consumer taxes.

(a) The following words and phrases when used in this section shall for the purposes of this section have the following respective meanings except where the context clearly indicates a different meaning:

(1) **Persons:** Individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and charter.

(2) **Telephone services:** Local telephone service furnished in the corporate limits of the city.

(3) **Purchaser:** Every person who purchases telephone service.

(4) **Seller:** Every person whether a public service corporation or the municipality of the city, or not, who sells or furnishes telephone service.

(b) There is hereby imposed and levied by the city upon each and every purchaser of telephone service a consumer tax in the amount of seven (7) per cent on local telephone service; provided, however, on bills rendered on and after November 1, 1977, a four (4) per cent tax rate shall apply to charges for services or equipment furnished to business customers by telephone companies subject to public utility regulation during any period in which such services or equipment are in competition with services or equipment furnished by or available from persons not subject to public utility regulation.

(c) The tax imposed on a consumer of mobile local telecommunication service shall be as follows:

(i) For the fiscal year 1995-96 the tax shall be imposed at a rate equal to ten percent of the monthly gross charge to a consumer of mobile local telecommunication and shall not be applicable to any amount so charged in excess of one hundred dollars (\$100.00) per month for each mobile service consumer.

(ii) For the fiscal year 1996-97 the tax shall be imposed at a rate equal to ten percent of the monthly gross charge to a consumer of mobile local telecommunication and shall not be applicable to any amount so charged in excess of fifty dollars (\$50.00) per month for each mobile service consumer.

(iii) Beginning July 1, 1997, the tax shall be imposed at a rate equal to ten percent of the monthly gross charge to a consumer of mobile local telecommunication and shall not be applicable to any amount so charged in excess of thirty dollars (\$30.00) per month for each mobile service consumer.

(d) It shall be the duty of every seller in acting as the tax-collecting medium or agency for the city to collect from the purchaser for the use of the city the tax hereby imposed and levied at the time of collecting the purchase price charged therefor and the taxes collected during each calendar month shall be reported and remitted by each seller to the commissioner of the revenue on or before the fifteenth day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay the tax.

(e) The required reports shall be in the form prescribed by the commissioner of the revenue. All remittances received hereunder by the commissioner of the revenue shall be promptly turned over by him to the collector of city taxes. The tax levied or imposed under this section with respect to the purchase of any telephone utility service shall be applicable to charges first appearing on bills rendered August 1, 1971 and thereafter.

(f) Each and every seller shall keep complete records showing all purchases in the city, which records shall show the price charges against each purchaser with respect to each purchase, the date thereof, and the date of payment thereof, and the amount of tax imposed hereunder. Such records shall be kept open for inspection by the duly authorized agents of the city at reasonable times. The duly authorized agents of the

city shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

(g) The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof are hereby exempt from the payment of the tax imposed and levied by this section with respect to the purchase of telephone services used by such governmental agencies.

(h) The tax hereby imposed and levied on purchasers with respect to local exchange telephone service shall apply to all charges made for local exchange telephone service except local messages which are paid for by inserting coins in coin operated telephones.

(i) In all cases where the seller collects the price for telephone services periodically, the tax hereby imposed and levied may be computed on the aggregate amount of purchases during such period; provided, that the amount of the tax to be collected shall be the nearest whole cent to the amount computed.

(j) Any purchaser failing, refusing or neglecting to pay the tax hereby imposed or levied and any seller violating the provisions hereof, and any officer, agent or employee of any seller violating the provisions hereof, shall, in addition to any other penalty provided by law, be guilty of a class 1 misdemeanor. Each failure, refusal, neglect or violation and each day's continuance thereof shall constitute a separate offense.

(k) The collector of city taxes shall be charged with the power and the duty of collecting the taxes levied and imposed hereunder, and shall cause the same to be paid into the general treasury of the city.

(l) If any person whose duty it is to do so shall fail or refuse to remit to the city the tax required to be collected under this section within the time and in the amount specified in this section, there shall be added to such tax a penalty in the amount of ten (10) percent, with a minimum penalty of two dollars (\$2.00). In addition, interest at the rate of ten (10) percent per annum shall be computed and collected upon the taxes and penalty beginning thirty (30) days from the date such taxes were due and payable. (Tax Code 1941, § 130; Ord. of 11-8-55; Ord. of 12-18-62; Ord. of 6-29-71; Ord. of 11-26-74; Ord. of 9-27-77; Ord. No. O-83-038, § 1, 3-8-83; Ord. No. O-83-247, § 1, 10-25-83; Ord. No. O-85-029, § 1, 2-12-85, eff. 7-1-85; Ord. No. O-85-145, § 1, 6-11-85, eff. 7-1-85; Ord. No. O-87-215, § 1, 9-8-87, eff. 1-1-88; Ord. No. O-87-231, § 1, 10-13-87; Ord. No. O-89-006, § 1, 1-10-89, eff. 7-1-89; Ord. No. O-93-281, 10-12-93, eff. 1-1-94; Ord. No. O-95-122, 5-23-95, eff. 7-1-95; Ord. No. O-95-177, 6-13-95; Ord. No. O-96-035, 2-13-96, eff. 7-1-96; Ord. No. O-00-218, 10-17-00)

Charter reference—Utility taxes, § 48-a.

Cross reference—License tax on telephone companies, § 36-81.

Sec. 36-187.1. Electric and natural gas consumers tax.

Notwithstanding any other ordinance or other enactment heretofore adopted and currently in force in the city, the following is hereby adopted and ordained to be effective as set forth hereinbelow:

(a) Definitions

CCF: means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Consumer: means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in the city.

Commercial consumer: means a consumer of natural gas or electric utility service provided to property used primarily for commercial purposes as classified by the utility service provider.

Electric utility: means a public utility authorized to furnish electric service to consumers in the Commonwealth of Virginia.

Gas utility: means a public utility authorized to furnish natural gas service in the Commonwealth of Virginia.

Kilowatt hours (kWh) delivered: means 1000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that in the case of eligible customer-generators (sometimes called cogenerators) as defined in Virginia Code §56-594 (or any succeeding section of the state code), it means kWh supplied from the electric grid to such customer-generators, minus the kWh generated and fed back to the electric grid by such customer-generators.

Person: means any individual, partnership, corporation, company or any other entity.

Pipeline distribution company: means a person, other than a pipeline transmission company which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat, light or power.

Residential consumer: means the owner or tenant of property used primarily for residential purposes, including but not limited to, apartment houses and other multiple-family dwellings.

Service provider: means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily: relates to the larger portion of the use for which electric or natural gas utility service is furnished.

Utility service: means the provision of electricity or natural gas for consumption by consumers.

(b) Electric utility consumer tax.

In accordance with Virginia Code §58.1-3814 (or any succeeding section of the State Code), effective January 1, 2001, there is hereby imposed and levied a monthly tax, on a "per meter" basis, on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) Residential consumers: such tax shall be the greater of (a) the rate of \$0.00460 for the first 1000 kWh or fraction thereof delivered monthly to such consumer by a service provider, and \$0.00260 for each kWh over the first 1,000 kWh delivered monthly to such consumer by a service provider; or (b) seven percent (7%) of the minimum monthly charge imposed by the service provider.

(2) Non-residential consumers: such tax on non-residential consumers shall be at the rates per month for the classes of non-residential consumers as set forth below:

(i) Commercial consumers: such tax shall be the greater of \$0.00480 for the first 1000 kWh or fraction thereof delivered monthly to such consumer by a service provider and \$0.00292 for each kWh over the first 1,000 kWh delivered monthly to such consumer by a service provider; or (b) seven percent (7%) of the minimum monthly charge imposed by the service provider.

(ii) Industrial consumers: such tax on industrial consumers as defined in Divisions B and D, and Major Group 46 and Industry Number 4922 of Major Group 49 of Division E of the Standard Industrial Classification Manual of the U. S. Office of Management and Budget shall be the greater of \$0.00375 for the first 1000 kWh or fraction thereof delivered monthly to such consumer by a service provider; and \$0.00260 for each kWh over the first 1,000 kWh delivered monthly to such consumer by a service provider; or (b) seven percent (7%) of the minimum monthly charge imposed by the service provider.

(iii) All other classes of non-residential customers: such tax shall be the greater of \$0.00480 for the first 1000 kWh or fraction thereof delivered monthly to such consumer by a service provider and \$0.00292 for each kWh over the first 1,000 kWh delivered monthly to such consumer by a service provider; or (b) seven percent (7%) of the minimum monthly charge imposed by the service provider.

(3) The conversion of tax pursuant to this ordinance to monthly kWh delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(c) Local natural gas utility consumer tax.

In accordance with Virginia Code §58.1-3814 (or any succeeding section of the State Code), there is hereby imposed and levied a monthly tax, on a “per meter” basis, on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by “class of consumers” as such term is defined in Virginia Code §58.1-3814 J., as follows:

(1) Residential consumers: such tax on residential consumers of natural gas shall be \$0.86 per month plus at the rate of \$0.05088 on each CCF or fraction thereof delivered monthly to residential consumers.

(2) Non-residential consumers: such tax on non-residential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as set forth below:

(i) Commercial consumers: such tax on commercial consumers of natural gas shall be \$1.63 per month plus at the rate of \$0.02689 on each CCF or fraction thereof delivered monthly to commercial consumers.

(ii) Industrial consumers: industrial consumers are defined in Divisions B and D, and Major Group 46 and Industry Number 4922 of Major Group 49 of Division E of the Standard Industrial Classification Manual of the U. S. Office of Management and Budget and such tax on industrial consumers of natural gas shall be \$1.63 per month plus at the rate of \$0.00256 on each CCF or fraction thereof delivered monthly to commercial consumers.

(iii) All other classes of non-residential customers: such tax shall be \$1.63 per month plus at the rate of \$0.02689 on each CCF or fraction thereof delivered monthly to such customers.

(3) The conversion of tax pursuant to this ordinance to monthly CCF delivered shall not be effective before the first meter reading after December 31, 2000, prior to which time the tax previously imposed by this jurisdiction shall be in effect.

(d) Billing, collection and remittance of tax. The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the same to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Virginia Code §58.1-3814, paragraphs H. and I., and Virginia Code §58.1-2901 (or any succeeding sections of the State Code). If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and upon collection of the bill or any part thereof must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to the City.

It shall be the duty of every seller in acting as the tax-collecting medium or agency for the city to collect from the purchaser for the use of the city the tax hereby imposed and levied at the time of collecting the purchase price charged therefor and the taxes collected during each calendar month shall be reported and remitted by each seller to the commissioner of the revenue on or before the fifteenth day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax.

The required reports shall be in the form prescribed by the commissioner of the revenue. All remittances received hereunder by the commissioner of the revenue shall be promptly turned over by him to the collector of city taxes.

Each and every seller shall keep complete records showing all purchases in the city, which records shall show the price charges against each purchaser with respect to each purchase, the date thereof, and the date of payment thereof, and the amount of tax imposed hereunder. Such records shall be kept open for inspection by the duly authorized agents of the city at reasonable times. The duly authorized agents of the city shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

Any tax paid by the consumer to the service provider shall be deemed to be held in trust as a fiduciary for and on behalf of the city by such provider until remitted to the city.

If any person whose duty it is to do so shall fail or refuse to remit to the city the tax required to be collected under this section within the time and in the amount specified in this section, there shall be added to such tax a penalty in the amount of ten (10) percent, with a minimum penalty of two dollars (\$2.00). In addition, interest at the rate of ten (10) percent per annum shall be computed and collected upon the taxes and penalty beginning thirty (30) days from the date such taxes were due and payable.

(e) Exemptions. The United States of America, the Commonwealth of Virginia, and the political subdivisions, boards, commissions and authorities thereof are hereby exempt from the payment of the tax imposed and levied by this section with respect to the purchase of utility services used by such governmental agencies.

(f) Maximum Tax Allowable. Effective on and after July 1, 1995, for the fiscal year beginning July 1, 1995 and ending June 30, 1996, and for each fiscal year thereafter, unless otherwise changed by city council, the utility taxes paid by a purchaser on each utility service purchased from each industrial point of service shall be capped at and shall not exceed the sum of one hundred thirty thousand dollars (\$130,000) per fiscal year.

(g) Penalties. Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this ordinance, and any officer, agent or employee of any service provider violating the provisions of this ordinance shall, in addition to any other penalty provided by law be guilty of a class 1 misdemeanor. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this ordinance.

Any person who willfully fails to bill, collect, remit or truthfully account for and pay over to the city the consumer utility tax as provided in this section, or who willfully attempts in any manner to evade or defeat any such tax, or the billing, collection or remittance thereof, shall, in addition to all other penalties provided by law, be liable to the city for a penalty in an amount equal to such tax.

The term "person" as used in this section specifically includes any officer, agent and employee of any person as defined in this section who is under a duty to perform on behalf of that person the act in respect of which the violation occurs and who (i) had actual knowledge of the failure or attempt as set forth herein and (ii) had authority to prevent such failure or attempt.

A criminal conviction pursuant to this section shall not relieve any such person from the payment, collection and remittance of the tax as otherwise provided in this article. (Ord. No. O-00-218, 10-17-00)

Sec. 36-188. Sales tax.

There is hereby levied and imposed in addition to all other taxes and fees of every kind now imposed, a general retail sales tax at the rate of one per cent (1%) to provide revenue for the general fund. The rate of the tax shall be added to the rate of the state retail sales tax imposed by Chapter 8.1 of the Code of Virginia (or Virginia Retail Sales and Use Tax Act) and shall be subject to all the provisions of said chapter, and all amendments thereof, and the rules and regulations published with respect thereto, except that the applicable brackets of prices shall be as prescribed in Sections 58-441.50 and 58-441.51 of the Code of Virginia for the combined tax, and except that no discount under Section 58-441.25 of the Code of Virginia shall be allowed on the tax levied by this section.

Provided, however, that for any business firm which is designated as a "qualified business firm" prior to July 1, 1995 pursuant to the provisions of Chapter 22, Title 59.1 of the Code of Virginia, 1950, as amended, (the Urban Enterprise Zone Act), shall be entitled to a refund of the local retail sales tax paid within the

Lynchburg city limits for a period of five (5) years from the date it commences operation. (Tax Code 1941, § 135; Ord. of 4-26-66; Ord. No. O-84-171, § 1, 11-13-84, eff. 7-1-84; Ord. No. O-95-232, 8-8-95)

State law reference—Authority to levy sales tax, Code of Virginia, § 58.1-605.

Sec. 36-189. Recordation tax.

Pursuant to Section 58-65.1, Code of Virginia (1950), as amended, there is hereby imposed a city recordation tax in an amount equal to one-third (1/3rd) of the amount of the state recordation tax collectible for the state on the first recordation of each taxable instrument in this city; provided, however, that, except in a case in which the state recordation tax is fifty cents (\$0.50) specifically, where a deed or other instrument conveys, covers or relates to property located in this city and also to property located in another city or county or in other counties or cities, the tax imposed under the authority of this section shall be computed only with respect to the property located in this city. (Tax Code 1941, § 136; Ord. of 6-1-78)

Sec. 36-190. E-911 tax.

(a) The council of the City of Lynchburg finds:

(1) That an E-911 system, as defined in subsection (b)(1) of this section will be installed in the City of Lynchburg;

(2) That the Bell Atlantic Telephone Company of Virginia has central office equipment which will permit such system to be established; and

(3) That it is necessary to levy a tax on purchases of local telephone service to pay the capital and installation costs and the recurring operation, maintenance repair, system upgrade costs and personnel salaries of the E-911 system.

(b) The following words and phrases when used in this section shall for the purposes of this section have the following respective meanings, except where the context clearly indicates a different meaning:

(1) E-911 system. An E-911 system means a telephone service which utilizes a computerized system to automatically route emergency telephone calls placed by dialing the digits "911" to the proper public safety answering point serving the jurisdiction from which the emergency telephone call was placed. An E-911 system includes selective routing of telephone calls, automatic telephone number identification and automatic location identification performed by computers and other ancillary control center communications equipment.

(2) Public safety answering point. The term public safety answering point means a communications facility operated on a twenty-four (24) hour basis which first receives E-911 calls from persons in an E-911 service area and which may, as appropriate, directly dispatch public safety service or extend, transfer or relay E-911 calls to appropriate public safety agencies.

(3) Public safety agency. The term public safety agency means a functional division of a public agency which provides fire-fighting, police, medical or other emergency services or a private entity which provides such services on a voluntary basis.

(4.) City. The term city shall mean the City of Lynchburg.

(c) There is hereby imposed and levied by the city upon every purchaser of local telephone service a tax in the amount of two dollars (\$2.00) per month. This tax shall be paid by the purchaser to the seller of local telephone service for the use of the city to pay the capital and installation costs and the recurring maintenance, repair, and system upgrade costs, and personnel salaries or portion of salaries attributable to the operation and maintenance of the city's E-911 system. The amount of this tax may be modified by future action of the Lynchburg City Council to accurately reflect changes in the monthly recurring charges of the E-911 system.

(d) It shall be the duty of every seller in acting as the tax collecting medium or agency for the city to add the amount of the tax imposed under subsections (c) and (d) of this section to all periodic bills it renders to nonexempt purchasers of local telephone service. The seller shall accept remittances of tax from purchasers at the time it collects the charges for local telephone service and shall report and pay over all tax collected in any calendar month to the collector of city taxes on or before the last day of the first calendar month thereafter. The seller shall also notify the collector of city taxes at this time of the name and address of all purchasers who refuse to pay the tax imposed by this section. The reports required pursuant to this section shall be in a form acceptable to the collector of city taxes.

(e) Each and every seller shall keep records showing all purchases of local telephone services in the city. These records must show the dates of bills for local telephone service and the amount of tax appearing on each bill. These records shall be kept at the seller's offices for a period of three (3) years for inspection by the duly authorized agents of the city at reasonable times during normal business hours. The duly authorized agents of the city shall have the right, power and authority to make copies thereof.

(f) The United States of America, the State of Virginia and the political subdivisions, agencies, boards, commissions and authorities of the United States and Virginia are hereby exempted from payment of the tax imposed and levied by this section.

(g) This tax shall not apply to any local telephone service where a periodic bill is not rendered.

(h) Any purchaser who willfully fails, refuses or neglects to pay the tax hereby imposed and levied and any seller, or any officer, agent or employee thereof, who with full knowledge willfully refuses to perform the duties imposed on it by subsection (e) with the intent of preventing the collection of this tax shall be guilty of a class 4 misdemeanor. Each failure, refusal or neglect and each day's continuance thereof shall constitute a separate offense.

(i) Whenever the tax levied by this section is collected by the seller acting as a tax collecting medium or agency for the city and remitted by the seller to the city in accordance with subsection (e), such seller shall be allowed, as compensation for the collection and remittance of this tax, three (3) per cent of the amount collected. The seller shall deduct this compensation from the remittances made to the collector of city taxes in accordance with subsection (e).

(j) Subsection (c) shall be effective on all bills for telephone service rendered on and after September 1, 1996. (Ord. No. O-85-116, § 1, 6-11-85; Ord. No. O-85-166, § 1, 8-13-85; Ord. No. O-88-226, § 1, 8-9-88; Ord. No. O-90-094, 3-27-90, eff. 12-1-89; Ord. No. O-91-112, 6-11-91, eff. 12-1-90; Ord. No. O-94-170, 6-28-94; Ord. No. O-96-091, 4-23-96, eff. 7-1-96)

Sec. 36-191. Bank franchise tax.

(a) Definitions. For the purposes of this section, the following words shall have the following meanings ascribed to them by this subsection:

Bank shall be as defined in Section 58-485.01 of the Code of Virginia (1950), as amended.

Net capital shall mean a bank's net capital computed pursuant to Section 58-485.07 of the Code of Virginia (1950), as amended.

(b) Imposition of bank franchise tax. Pursuant to the provisions of Chapter 10.01 of Title 58 of the Code of Virginia (1950), as amended, there is hereby imposed upon each bank located within the boundaries of the City of Lynchburg a tax on net capital equalling eighty (80) percentum of the state rate of franchise tax set forth in Section 58-485.06 of the Code of Virginia.

In the event that any bank located within the boundaries of the city is not the principal office but is a branch extension or affiliate of the principal office, the tax upon such branch shall be apportioned as provided by Section 58-485.012 of the Code of Virginia.

(c) Filing of return and payment of tax. On or after the first day of January of each year, but not later than March first of any such year, all banks whose principal offices are located within this city shall prepare and file with the commissioner of revenue a return as provided by Section 58-485.013 of the Code of Virginia in duplicate which shall set forth the tax on net capital computed pursuant to Chapter 10.01 of Title 58 of the Code of Virginia. The commissioner of revenue shall certify a copy of such filing of the bank's return and schedule and shall forthwith transmit such certified copy to the state department of taxation.

In the event that the principal office of a bank is located outside the boundaries of this city and such bank has branch offices located within this city, in addition to the filing requirements set forth herein, any bank conducting such branch business shall file with the commissioner of revenue a copy of the real estate deduction schedule, apportionment and other items which are required by Sections 58-485.012, 58-485.013 and 58-485.014 of the Code of Virginia.

Each bank, on or before the first day of June of each year, shall pay into the collector's office of this city all taxes imposed pursuant to this section.

(d) Penalty upon bank for failure to comply with section. Any bank which shall fail or neglect to comply with any provision of this section shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), which fine shall be recovered upon motion after five (5) days' notice in the circuit court of the City of Lynchburg. The motion shall be in the name of the commonwealth and shall be presented by the commonwealth's attorney for the City of Lynchburg. (Ord. No. O-96-319, 12-10-96, eff. 1-1-97)

Secs. 36-192—36-194. Reserved.

DIVISION 2. CIGARETTE TAX*

Sec. 36-195. Definitions.

The following words and phrases, when used in this division, shall, for the purposes of this division, have the following respective meanings except where the context clearly indicates a different meaning:

Dealer. Every person, jobber, wholesale dealer or other person who supplies a seller with cigarettes.

Package. Every package, box, can or other container of any cigarettes, irrespective of the material from which such container is made, and in which retail sales of such cigarettes are normally made or intended to be made.

Purchaser. Every person to whom title to any cigarette is transferred by a seller within the corporate limits of the city.

*State law reference—Taxes on tobacco products, Code of Virginia, § 58.1-1000 et seq.

Sale. Every act or transaction, irrespective of the method or means employed, including the use of vending machines, and other mechanical devices whereby title to any cigarettes shall be transferred from the seller, as herein defined, to any person within the corporate limits of the city.

Seller. Every person who transfers title to any cigarettes, or in whose place of business title to any cigarettes is transferred, within the corporate limits of the city, for any purpose other than resale.

Stamp. A small gummed piece of paper or decalcomania to be sold by the city collector and to be affixed to every package of cigarettes sold at retail in the city, and also any insignia or symbols printed by a meter machine upon any such package under the authorization of the city collector. (Tax Code 1941, § 133(1))

Sec. 36-196. Rate and amount of tax.

There is hereby levied and imposed by the city, upon each and every sale of cigarettes, on and after July 1, 2003, a tax equivalent to seventeen and one-half (17-1/2) mills per cigarette with a minimum tax of thirty-five cents (\$0.35) per pack on all cigarettes sold within the city, the amount of said tax to be paid by the seller, if not previously paid, in the manner and at the hereinafter provided. (Tax Code 1941, § 133(2); Ord. No. O-84-117, § 1, 5-22-84; Ord. No. O-88-105, § 1, 5-24-88, eff. 7-1-88; Ord. No. O-89-112, § 1, 5-23-89, eff. 7-1-89; Ord. No. O-03-099, 5-13-03, eff. 7-1-03)

Sec. 36-197. How tax paid.

The tax imposed by this division shall be paid by affixing or causing to be affixed a stamp or stamps, of the proper denominational or face value, to each and every package of cigarettes sold within the city, in the manner and at the time or times hereinafter provided. Every dealer and every seller in the city shall have the right to buy such stamps from the city collector and to affix the same to packages of cigarettes as provided in this division. (Tax Code 1941, § 133(3))

Sec. 36-198. Reports.

All reports and remittances due under the provisions of this division covering purchases by retailers during the preceding calendar months, shall be filed and paid on or before August 20, 1971. The final report to be filed with the city collector by August 20, 1971 should include an inventory of the amount of cigarettes on hand August 1, 1971. A credit for these will be allowed in order to avoid duplication of the tax. (Tax Code 1941, § 133(3))

Sec. 36-199. Stamps, machine imprint required.

(a) Every local dealer or seller in cigarettes is hereby required, and it shall be his duty, to purchase such stamps at the office of the city collector as shall be necessary to pay the tax levied and imposed by this division, and to affix or cause to be affixed, a stamp or stamps of the monetary value prescribed by this section to each package of cigarettes prior to offering such package of cigarettes for sale to a purchaser; provided, however, that nothing herein contained shall preclude any dealer or seller from using a stamp meter machine in lieu of gummed stamps to effectuate the provisions of this division.

(b) Stamps, or the printed markings of a meter machine, shall be placed upon each package of cigarettes in such manner as to be readily visible to purchaser.

(c) Every seller is hereby required to examine each package of cigarettes prior to exposing the same for sale, for the purpose of ascertaining whether such package has the proper stamps affixed thereto or imprinted thereon as provided by this division.

(d) Should a seller have in his possession any unstamped or improperly stamped cigarettes, or should a seller obtain or acquire possession from any person of any unstamped or improperly stamped cigarettes, such seller shall forthwith, before selling, offering or exposing such cigarettes for sale in the city, purchase and affix or cause to be affixed to such packages of cigarettes the proper stamps, or the markings of a meter machine, covering the tax imposed by this division. (Tax Code 1941, § 133(4))

Sec. 36-200. Preparation of stamps.

For the purpose of making stamps available for use, the city collector shall prescribe, prepare and sell, stamps of such denominations and in such quantities as may be necessary for the payment of the taxes imposed by this division. In the sale of such stamps, the city collector shall allow a discount of eight (8) per cent of the denominational or face value thereof to cover the costs which will be incurred in affixing the stamps to the packages of cigarettes. In the event the printing by an authorized meter machine is used in lieu of gummed stamps, there shall be allowed a discount of ten (10) per cent of the denominational or face value of the imprints of said stamps so printed by said meter machine to cover the costs incurred in printing such imprints. (Tax Code 1941, § 133(5))

Sec. 36-201. Design of stamps.

The city collector may, from time to time, and as often as he may deem advisable, provide for the issuance and exclusive use of stamps of a new design, and forbid the use of stamps of any other design. (Tax Code 1941, § 133(6))

Sec. 36-202. Meter machines.

The city collector is authorized to permit the payment in advance of the tax levied and imposed by this division by the method of placing imprints of stamps upon original packages by the use of meter machines in lieu of the method of paying such tax by the purchase and affixing of gummed stamps, and to prescribe and enforce the necessary regulations setting forth the method to be employed and the conditions to be observed in the use of such meter machines. (Tax Code 1941, § 133(7))

Sec. 36-203. Refunds.

(a) Should any person, after acquiring from the city collector any stamps herein provided for, cease to be engaged in a business necessitating the use thereof, or should any such stamps become mutilated and unfit for use other than by cancellation as herein provided, such person shall be entitled to a refund of the denominational or face amount of any such stamps so acquired and not used by him, less eight (8) of the denominational or face amount thereof, upon presenting said stamps to the city collector and furnishing him with an affidavit showing to his satisfaction that said stamps were acquired by such person and have not in any manner been used, and the reason for requesting said refund.

(b) In the case of any authorized meter machine, should any imprints of such machine theretofore paid for not be used, such person shall, upon furnishing the city collector with a similar affidavit, be entitled to a refund of the denominational or face amount thereof less ten (10) per cent of the denominational or face value of said imprints of said machine not so used.

(c) In the case of stale dated cigarettes, a count of pre-stamped packages that have not been sold and have been removed from the market, upon furnishing the city collector with a sworn affidavit of the

manufacturer, a refund will be made less ten (10) per cent of the denominational or face value of said stamps or the original cost to the manufacturer. (Tax Code 1941, § 133(8); Ord. No. O-01-131, 7-10-01)

Sec. 36-204. Seizure, sale of untaxed cigarettes.

Whenever the city collector shall discover any cigarettes which are subject to the tax imposed by this division and upon which the tax has not been affixed or evidence of such tax shown thereon by the printed markings of an authorized meter machine, the city collector is hereby authorized and empowered to forthwith seize and take possession of such cigarettes, which shall thereupon be deemed to be forfeited to the city, and he may, within a reasonable time thereafter, after written notice posted at the front door of the courthouse of said city at least five (5) days before the date of sale, or published in some newspaper having general circulation in the city at least five (5) days before the date of sale, sell such forfeited cigarettes at the time and place designated in such notice, and from the proceeds of such sale shall collect the tax due thereon, together with a penalty of fifty (50) per cent thereof, and the costs incurred in such proceedings, and pay the balance, if any, of such proceeds to the person in whose possession such forfeited cigarettes were found. Provided, however, that such seizure and sale shall not be deemed to relieve any person from any fine provided herein for the violation of the provisions of this division. All moneys collected under the provisions of this division shall be paid to the city collector and treated as other taxes collected under this division. (Tax Code 1941, § 133(9))

Sec. 36-205. Illegal acts.

It shall be unlawful and a violation of this division for any person:

(a) To perform any act or fail to perform any act for the purpose of evading the payment of any tax imposed by this division or any part thereof; for any dealer or seller, with intent to violate any provision of this division, to fail or refuse to perform any of the duties imposed upon him under the provisions of this division or to fail to refuse to obey any lawful order which the city collector may issue under this division; or

(b) To falsely or fraudulently make, forge, alter or counterfeit any stamp or the printed markings of any meter machine, or to procure or cause to be made, forged, altered or counterfeited any such stamp or printed markings of a meter machine, or knowingly and willfully to alter, publish, pass or tender as true any false, altered, forged or counterfeited stamp or stamps or printed markings of a meter machine; or

(c) To sell any cigarettes upon which the tax imposed by this division has not been paid and upon which evidence of payment thereof is not shown on each package of cigarettes; or

(d) To reuse or refill with cigarettes any package from which cigarettes, for which the tax imposed has been theretofore paid, have been removed; or

(e) To remove from any package any stamp or the printed markings of a meter machine with intent to use or cause the same to be used after the same have already been used, or to buy, sell, or offer for sale or give away any used, removed, altered or restored stamps or printed markings of a meter machine to any person, or to reuse any stamp or printed markings of a meter machine which had theretofore been used for evidence of the payment of any tax prescribed by this division, or, except as to the city collector, to sell, or offer to sell, any stamp or printed markings of a meter machine provided for herein. (Tax Code 1941, § 133(10))

Sec. 36-206. Presumption of violation.

In the event any package of cigarettes is found in the possession of a seller without the proper stamps being affixed thereto or without authorized printed markings of a meter machine thereon, and the seller shall be unable to submit evidence establishing that he received such package within the immediately preceding forty-eight (48) hours, and that he has not offered the same for sale, the presumption shall be

that such package is being kept by such seller in violation of the provisions of this division, and shall subject him to the penalties hereinafter provided. (Tax Code 1941, § 133(11))

Sec. 36-207. Keeping, maintenance of records.

It shall be the duty of every local dealer and seller, and he is hereby so required, to maintain and keep, for a period of two (2) years, such record of cigarettes sold and delivered by him as may be required by the city collector and to make all such records available for examination by said city collector, or his duly authorized agent, upon demand, at any and all reasonable times. (Tax Code 1941, § 133(12))

Sec. 36-208. Rules, regulations.

(a) The city collector is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to the method and means to be used in the cancellation of the aforesaid stamps, and to any and all other matters pertaining to the administration and enforcement of the provisions of this division.

(b) He is hereby further authorized and empowered to examine books, records, invoices, papers, and any and all cigarettes in and upon any premises where the same are placed, stored, sold, offered for sale or displayed for sale by a seller. (Tax Code 1941, § 133(13))

Sec. 36-209. Tax additional.

The tax levied and imposed by this division shall be in addition to all other taxes of every kind levied and imposed by any other ordinance or law. (Tax Code 1941, § 133(14))

Sec. 36-210. Penalties.

Any person violating any of the provisions of this division shall be deemed guilty of a class 3 misdemeanor, and such conviction and payment of fine shall not relieve any such person from the payment of any tax imposed by this division. (Tax Code 1941, § 133(15))

Secs. 36-211—36-220. Reserved.

DIVISION 3. TRANSIENT LODGING TAX

Sec. 36-221. Definitions.

The following words and phrases, when used in this division, shall, for the purposes of this division, have the following respective meanings except when the context clearly indicates a different meaning:

Collector: The city collector and any of his duly authorized agents.

Director: The director of finance and any of his duly authorized agents.

Hotel: Any public or private hotel, inn, hostelry, tourist home or house, motel, rooming house or other lodging place within the city offering lodging for compensation to any transient.

Lodging: Space or room furnished any transient.

Transient: Any person who, for a period of not more than thirty (30) consecutive days, either at his own expense, or at the expense of another, obtains lodging at any hotel. (Tax Code 1941, § 91; Ord. of 7-1-78; Ord. No. O-81-106, § 1,5-26-81)

Sec. 36-222. Violations.

Any person violating or failing to comply with any of the provisions of this division shall be guilty of a class 2 misdemeanor. Each violation or failure shall constitute a separate offense. Conviction shall not relieve any person from the payment, collection or remittance of the tax as provided in this division. In addition to the other penalties provided herein, if any hotel shall fail to collect or remit the transit lodging tax as required in this division, the city shall have the right to petition the judge of the circuit court for a court order directing that the offending hotel be closed until such time as it demonstrates its willingness to comply with the provisions of this division. (Tax Code 1941, § 100; Ord. of 7-1-78; Ord. No. O-91-077, 4-23-91)

Sec. 36-223. Levied.

There is hereby imposed and levied by the city on each transient a tax equivalent to five and one-half per cent (5-1/2%) of the total amount paid for lodging and one dollar (\$1.00) per room per night, excluding any other taxes levied thereon, by or for any transient to any hotel. (Tax Code 1941, § 92; Ord. of 7-1-78; Ord. of 7-1-79; Ord. No. O-81-102, § 1, 5-26-81; Ord. No. O-89-112, § 1, 5-23-89, eff. 7-1-89; Ord. No. O-90-134, 5-15-90, eff. 7-1-90; Ord. No. O-00-105, 5/23/00, eff. 7/7/00)

Sec. 36-224. Exemptions.

No tax shall be payable under this division in any of the following instances:

- (a) On charges for lodging paid to any hospital, medical clinic, convalescent home or home for the aged.
- (b) On charges made for providing space for a mobile home in a duly authorized mobile home park. (Tax Code 1941, § 99; Ord. of 7-1-78)

Sec. 36-225. Collection generally.

The tax imposed and levied by this division shall be collected from the transient by the person providing such lodging at the time and in the manner provided in this division. (Tax Code 1941, § 92; 7-1-78)

Sec. 36-226. Collection procedure.

(a) Every person receiving any payment for lodging with respect to which a tax is levied under this division shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this division.

(b) For the purpose of compensating a person, as herein defined, for accounting for and remitting the tax levied by this division, such person shall be allowed three per cent (3%) of the amount of tax due and accounted for in the form of a deduction in submitting his return and paying the amount due by him; provided the amount due was not delinquent at the time of payment. (Tax Code 1941, § 93; Ord. of 7-1-78; Ord. of 8-14-79, § 1(94))

Sec. 36-227. Reports, remittance of tax collected.

The person collecting any tax as provided in this division shall make out a record thereof upon such forms and setting forth such information as the director may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected, and shall sign and deliver such reports to the collector with a remittance of such tax. Such report and remittance shall be made on or before the twentieth day of each month for taxes collected the preceding month. All payments of monies shall be to the collector of the city. (Tax Code 1941, § 94; Ord. of 7-1-78; Ord. of 8-17-79, § 1(94))

Sec. 36-228. Interest, penalties.

If any person shall fail or refuse to remit to the city collector the tax required to be collected and paid under this division within the time and in the amount specified in this division there shall be added to such tax by the collector a penalty in the amount of ten per cent (10%) thereof, and interest thereon at the rate of ten (10%) per cent per annum which shall be computed upon the taxes and penalty from the date such taxes are due and payable. (Tax Code 1941, § 95; Ord. of 7-1-78; Ord. No. O-82-261, § 1, 12-14-82; Ord. No. O-95-099, 4-25-95)

Sec. 36-229. Failure or refusal to collect and report tax.

If any person shall fail or refuse to collect the tax imposed under this division and to make within the time provided in this article the reports and remittances required in this division the director shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the director shall procure such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who has failed or refused to collect such tax, and to make such report and remittance, he shall proceed to determine and assess against such person such tax, penalty and interest as provided for in this division, and shall notify such person by registered mail sent to his last known place of address of the amount of such tax, interest and penalty, and the total thereof shall be payable within ten (10) days from the date of the mailing of such notice. (Tax Code 1941, § 96; Ord. of 7-1-78)

Sec. 36-230. Records.

It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this division to keep and to preserve for a period of two (2) years such suitable records as may be necessary to determine and show accurately the amount of such tax as he may have been responsible for collecting and paying to the city. The director may inspect such records at all reasonable times. (Tax Code 1941, § 97, Ord. of 7-1-78)

Sec. 36-231. Procedure upon cessation of business.

Whenever any person required to collect and pay to the city a tax under this division shall cease to operate or dispose of his business, he shall notify the collector of such fact and any tax payable under this division to the city shall become immediately due and payable on the date such person shall cease to operate or dispose of his business and such person having made a report through such date for the collection of such taxes thereafter. Otherwise such person shall be liable for such taxes through the succeeding collection date. (Tax Code 1941, § 98; Ord. of 7-1-78)

Secs. 36-232—36-240. Reserved.**DIVISION 4. PREPARED FOOD TAX**

Editor's Note: Secs. 36-241 thru 36-254, were repealed by Ord. No. O-00-138, 6/27/00, eff. 7/1/00, were replaced by Secs.36-254 thru 36-254.10

Sec. 36-254. Definitions.

The following words and phrases, when used in this ordinance, shall have, for the purposes of this ordinance, the following respective meanings except where the context clearly indicates a different meaning:

Cater: The furnishing of food, beverages, or both on the premises of another, for compensation.

Collector: The city's billings and collections division.

Commissioner: The commissioner of revenue and any duly designated deputies, assistants, or other employees.

Food. All food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not, and without regard to the manner, time or place of service.

Food establishment. Any place in or from which food or food products are prepared, packaged, sold or distributed in the city, including but not limited to, any restaurant, dining room, grill, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and shall include private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal. Meal shall mean any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.1. Levied

There is hereby imposed and levied by the city on each person a tax at the rate of six percent (6%) on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not, and whether consumed on the premises or not. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36.254.2. Collection of tax by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this ordinance from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made; provided, however, no blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Visually Handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes. All tax collections shall be deemed to be held in trust for the city. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.3. Exemptions; limits on application.

(a) The tax imposed under this ordinance shall not be levied on factory-prepackaged candy, gum, nuts and other items of essentially the same nature served for on or off-premises consumption.

(b) The tax imposed under this ordinance shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Factory – prepackaged donuts, ice cream, crackers, nabs, chips, cookies and other items of essentially the same nature, except when sold as part of a meal.

(2) Food sold in bulk. For the purposes of this provision, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on premises consumption (e.g. a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(3) Alcoholic and non-alcoholic beverages sold in factory sealed containers, except when sold as part of a meal.

(4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

(5) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. §2012, as amended except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, nonfactory sealed beverages and ice cream. This subsection shall not affect provisions set forth in subparagraphs (d) (3), (4) and (5) hereinbelow.

(c) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(d) The tax imposed hereunder shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees, when the food and beverages are sold in a dining hall or cafeteria or included as part of a student's tuition or as part of an employee's pay.

(3) Food and beverages for use or consumption and which are paid for directly by the Commonwealth, any political subdivision of the Commonwealth or the United States.

(4) Food and beverages furnished by a hospital, medical clinic, convalescent home, nursing home, home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics, or other extended care facility to patients or residents thereof and the spouses and children of such persons. Food items that are sold to members of the general public in a cafeteria are subject to the prepared food tax.

(5) Food and beverages furnished by a public or private non-profit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the Commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis, not exceeding two (2) times per calendar year, by a non-profit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for non-profit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

(e) Meals sold or purchased under nonprofit nutrition programs for the elderly qualifying under 42 U.S.C. Section 3030(e) thru (g), as amended, as administered by the Office of Aging of the Commonwealth of Virginia, shall not be considered as sales of food under this division. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-245.4. Gratuities and service charges.

Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this ordinance, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price

of the food and beverages and is subject to the tax imposed by this ordinance. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

36-254.5. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this ordinance to pay to the city the taxes imposed by this ordinance to make a report thereof setting forth such information as the commissioner may prescribe and require, including all purchases tax-able under this ordinance, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this ordinance. Such report and remittance shall be made as required by the commissioner, which shall be at least once in every thirty (30) day period. The records required by this section shall be kept and preserved for a period of five (5) years. The commissioner or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this ordinance, and to make transcripts of all or any parts thereof. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.6. Penalties, interest on delinquent taxes.

If any person shall fail or refuse to remit to the city the tax required to be collected and paid by him under the provisions of this division within the time and in the amount required, there shall be added to such tax a penalty in the amount of ten (10) percent thereof, and interest thereon at the rate of ten (10) per cent per annum which shall be computed upon the taxes and penalty from the date such taxes are due and payable. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.7. Compensation.

For the purpose of compensating a person for accounting for and remitting the tax levied by the provisions of this division, such person shall be allowed three (3) percent of the amount of tax due and accounted for in the form of a deduction in submitting his return and paying the amount due by him; provided the amount due was not delinquent at the time of payment. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.8. Enforcement.

If any person shall fail or refuse to collect the tax imposed by the provisions of this division and to make within the time required the reports and remittances required by this division, the commissioner shall proceed in such manner as he may deem best to obtain the facts and information on which to base his estimate of the tax due. As soon as the commissioner procures such facts and information as he is able to obtain upon which to base the assessment of any tax payable by any person who shall fail or refuse to collect such tax and to make such report and remittance, he shall proceed to determine and assess against such person such tax and penalty and interest provided by this division, and shall notify such person by regular mail sent to his last known place of address of the amount of such tax and penalty and interest, and the total amount thereof shall be payable within ten (10) days from the date of such notice. The commissioner shall have the power to examine such records for the purpose of administering and enforcing the provisions of this section. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.9. Penalty for violation of ordinance.

(a) Any person willfully failing or refusing to file a return as required under this ordinance shall, upon conviction thereof, be guilty of a class 1 misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this ordinance shall be guilty of a class 1 misdemeanor.

(b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code §58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this ordinance, who willfully fails to collect or truthfully account for or pay over such tax, or who

willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor.

(c) Each violation of or failure to comply with this ordinance shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this ordinance.

(d) In addition to the other penalties provided herein, if any food establishment or caterer shall fail to collect or remit the prepared food tax as required in this division, the city shall have the right to petition the judge of the circuit court for a court order directing that the offending food establishment or caterer be closed until such time as it demonstrates its willingness to comply with the provisions of this division. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Sec. 36-254.10 . Rules, regulations.

The commissioner shall have the authority to promulgate appropriate rules and regulations for the administration of the provisions of this division, which rules and regulations shall be subject to the approval of the city manager. (Ord. No. O-00-138, 6-27-00, eff. 7-1-00)

Secs. 36-255—36-260. Reserved.

DIVISION 5. AMUSEMENT TAX

Sec. 36-261. Definitions.

The following words and phrases when used in this division, shall, for the purposes of this division have the following respective meanings, except where the context clearly indicates a definite meaning:

Amusement tax or admission charge: The charge made for admission to any amusement or entertainment, exclusive of any federal tax thereon, including a charge made for season tickets, whether obtained by contributions or subscription, a cover charge or a charge made for the use of seats or tables, reserved or otherwise, and similar accommodations in the city. When a person is admitted free and a service charge is made, the service charge shall be considered as a charge for admission.

Director: The director of the department of finance and any of his duly authorized representatives.

Place of amusement or entertainment: Any place in the city wherein or whereat any of the following, or amusements or entertainments similar to the following, are located, conducted, performed, exhibited and operated: circuses; carnivals; menageries; amusement parks; moving picture shows; fairs; shows and exhibitions of all kinds; dances sponsored by or held by organizations on a regular or recurring basis at the organization's facilities; baseball, football wrestling, boxing and sports of all kinds; public swimming pools; concerts, theatrical, vaudeville, dramatic, operatic and musical performances and performances similar thereto; bowling alleys; roller rinks; public golf courses; miniature golf; such attractions as merry-go-rounds, Ferris wheels; roller coasters, leap-the-dips and the like, and all other similar amusements, performances and exhibitions not specifically named herein; and any roof garden, cabaret or other similar place furnishing a public performance for profit, which shall include any room in any hotel, restaurant, hall or other public place where music and dancing privileges or any other entertainment is offered the patron in connection with serving or selling of food, refreshments or merchandise. A performance or event shall be regarded as being furnished for profit for purposes of this division even though the charge made for admission, refreshment, service or merchandise is not increased by reason of the furnishing of such performance. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-262. Levied; amount.

(a) There is hereby imposed and levied a tax of five (5) percent of the amount paid for admission to any place of amusement or entertainment, to be paid by every person who pays an admission charge to such place.

(b) There is hereby imposed and levied a tax of five (5) percent of all amounts paid for refreshments, service or merchandise at any place of amusement or entertainment at which no admission charge is made. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-263. Collection.

Every person receiving any payment for admission to any place of amusement or entertainment or for refreshments, service or merchandise on which a tax is levied under this division shall collect the amount of such tax imposed by this division from the person making the payment, at the time of the payment of such admission or purchase. If tickets or cards of admission are issued, the tax shall be collected at the time of the issuance of such tickets or cards. The taxes required to be collected hereunder shall be deemed to be held in trust by the person required to collect the same until remitted as provided in this division. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-264. Reports and remittances generally.

The person collecting any tax imposed by this division shall make out a report, upon such forms and setting forth such information as the director may prescribe or require, showing the amount of admission charges collected, exclusive of the federal tax thereon, and the tax from the admissions or purchases for which he is liable, and shall sign and deliver to the city collector's office with remittance of such tax on or before the twentieth (20) day of the calendar month following the month being reported. If the remittance received is by check or money order, the same shall be made payable to the city.

Every person liable for the collection and payment of the tax imposed by this division shall provide the director with a written list of the amusements and entertainments it plans to hold for the upcoming year no later than January 15 of each year. Persons operating temporary or transient events or events that are not scheduled in advance shall provide the director with written notice of such events at least forty-eight (48) hours before such event is scheduled to occur. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-265. Records.

It shall be the duty of every person liable for the collection and payment to the city of any tax imposed by this division to keep and preserve for a period of three (3) years, such suitable records as may be necessary to determine the amount of such tax he may have been responsible for collecting and paying to the city. The director may inspect such records at all reasonable times. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-266. Reports, remittances and deposits by temporary or transitory places of amusement or entertainment.

(a) Whenever any place of amusement or entertainment of a temporary or transitory nature makes an admission charge which is subject to the tax levied by this division, or does not make such an admission charge but does sell refreshments, services or merchandise which is subject to the tax levied by this division, the director may require the report and remittance of such tax to be made on the day following its collection, or on the day following the conclusion of a series of performances or exhibitions, or at such other reasonable time or times as he shall determine, and the failure to comply with any such requirement of the director as to the report and remittance of the tax so required shall be a violation of this division.

(b) Before any temporary or transient place of amusement or entertainment mentioned in subsection (a) above shall begin operation, and before any license shall be issued therefor, if a license is required, the person operating the same shall deposit with the director a sum of money, to be estimated by the director,

sufficient to cover the tax required to be collected by such person under the provisions of this division, as security for the collection of such tax and payment thereof to the city. At the conclusion of such temporary or transient operation in the city, such person shall file with the director the report required by this division and pay the tax collected to the city. Upon such report being filed and payment being made, the director shall refund in accordance with the city's normal payment processing schedule the deposit made under this section. Should any person fail to file such report and pay such tax collected within five (5) days from the termination of the operation of such amusement or entertainment, the director may thereupon assess such person with such tax at the amount of such deposit and the director shall retain such deposit as payment of the tax collected by and due the city by such person. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-267. Duty of collector going out or disposing of business.

Whenever any person required to collect and pay to the city a tax under this division shall quit business or otherwise dispose of his business, any tax payable to the city under this division shall become immediately due and payable and such person shall immediately make a report and pay the tax due. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-268. Penalty and interest for late remittance.

If any person shall fail or refuse to remit to the director the tax required to be collected and paid under this division, within the time and in the amount specified in this division, there shall be added thereto a penalty of ten (10) percent of the amount thereof, and interest thereon at the rate of ten (10) percent per annum which shall be computed upon the taxes and penalty from the date such taxes are due and payable. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90; Ord. No. O-95-099, 4-25-95)

Sec. 36-269. Procedure in case of failure to collect, report and remit.

If any person shall fail or refuse to collect the tax imposed by this division or to make, within the prescribed time, any report and remittance required by this division, the director shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due. As soon as the director shall procure such facts and information as he is able to obtain upon which to base

the assessment of any tax payable by any person who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such person the tax and penalties provided for by this division and shall notify such person by registered mail of the total amount of such tax and interest and penalties; and the total amount thereof shall be payable within ten (10) days from the date of such notice. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-270. Exceptions.

No tax shall be payable under this division for admission to the following amusements or entertainments:

- (a) Athletic events held by a college or university for teams or athletes that regularly participate in such college's or university's athletic programs and dances held by a college or university.
- (b) Athletic events that are held at a municipal facility or any amusement or entertainment event that is sponsored by the city.
- (c) Dances or any athletic or cultural event conducted by an elementary or secondary school, public or private. Fundraising activities such as carnivals and other amusement or entertainment events shall be subject to the tax provided for in Sec. 36-262 of this division.
- (d) Any athletic event that is held as part of the Virginia High School League All-Star Games.
- (e) Amateur participants in sports tournaments. For purposes of this exemption a sports tournament shall be defined as a series of sports or athletic contests taking place during a limited period of time rather than throughout a regular season, where all the participants or teams are amateur, includes teams or

participants from outside the region 2000 area and which has been sanctioned by an appropriate sanctioning body. Examples of sports tournaments include but shall not be limited to, bowling tournaments, miniature golf tournaments, softball tournaments, basketball tournaments, skating tournaments and similar sport activities. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90; Ord. No. O-96-140, 5-28-96)

Sec. 36-271. Penalty for violation of division.

Any person violating or failing to comply with any of the provisions of this division shall be guilty of a Class 2 misdemeanor and each violation or failure shall constitute a separate offense. Conviction for such violation shall not relieve any such person from the payment, collection and remittance of the tax, interest and penalties as provided in this division. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-272. Rules, regulations.

The director shall have the authority to promulgate appropriate rules and regulations for the administration of the provisions of this division, which rules and regulations shall be subject to the approval of the city manager. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)

Sec. 36-273. Advertising restricted.

A person operating a place of amusement or entertainment shall not advertise in any manner directly or indirectly that he will absorb or pay all or any part of the tax levied by the provisions of this division. (Ord. No. O-90-130, 5-15-90, eff. 7-1-90)